

Planning Committee

Wednesday, 20 August 2025 at 2.15 pm
Phoenix Chambers, Phoenix House, Tiverton

Next ordinary meeting
Wednesday, 10 September 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.

[To join the meeting click here](#)

Meeting ID: 326 240 332 920

Passcode: Uw3Pa9gj

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 N Letch
Cllr M Jenkins
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 30 July 2025.
- 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To report any items withdrawn from the agenda.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 - 54)*
To consider the planning applications contained in the list.
- 8 **MAJOR APPLICATIONS WITH NO DECISION** *(Pages 55 - 56)*
To receive a list of major applications and potential site visits.
- 9 **APPEAL DECISIONS** *(Pages 57 - 58)*
To receive a list of recent appeal decisions.

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

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 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). 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 30 July 2025 at 2.15 pm

Present

Councillors: L J Cruwys (Chairman)
G Cochran (Vice-Chair), F J Colthorpe,
G Czapiewski, G Duchesne, C Harrower,
B Holdman, L G J Kennedy, N Letch and
M Jenkins

Apologies

Councillors: S J Clist and S Robinson

Also Present

Councillors: S Keable and R Roberts

Also Present

Officers: Maria De Leburne (Director of Legal, People & Governance (Monitoring Officer)), John Hammond (Development Management Manager), John Millar (Area Team Leader), Adrian Devereaux (Area Team Leader), Simon Newcombe (Head of Housing & Health) and Sam Barnett (Housing Initiatives Officer) and Angie Howell (Democratic Services Officer)

Councillor

Online: E Buczkowski

Also in

attendance: Andrew Howard (Building Control Manager, North and Mid Devon Building Control) - online

24 **APOLOGIES AND SUBSTITUTE MEMBERS (00:04:19)**

Apologies were received from:

- Cllr S Clist who was substituted by Cllr L G J Kennedy
- Cllr S Robinson

25 PUBLIC QUESTION TIME (01:04:44)

There were no public questions however Mr Micheal James made a statement with reference to Plan 1 - 25/00541/FULL - Demolition of Cross Hotel main building at Cross Hotel, Copplestone, Crediton.

26 DECLARATION OF INTERESTS UNDER THE CODE OF CONDUCT (00:12:06)

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

Cllr N Letch made a declaration of interest regarding planning application number 25/00541/FULL - Demolition of Cross Hotel main building at Cross Hotel, Copplestone, Crediton as she had been heavily involved with the application and would therefore abstain from voting on this item.

27 MINUTES OF THE PREVIOUS MEETING (00:13:08)

The minutes of the previous meeting held on 2 July 2025 were agreed as a true record and **SIGNED** by the Chair.

28 CHAIR'S ANNOUNCEMENTS (00:13:30)

The Chair made the following announcements:-

- Angharad Williams, Development Management Manager would be leaving Mid Devon District Council. Her last day in the office would be 10 September.
- He reminded Planning Committee Members of the training dates to be held on 6 August at 2.15pm and 10 September at 10am.

29 WITHDRAWALS FROM THE AGENDA (00:14:39)

There were no withdrawals from the Agenda.

30 THE PLANS LIST (00:14:42)

The Committee considered the applications in the *Plans List.

1. 25/00541/FULL - Demolition of Cross Hotel main building at Cross Hotel, Copplestone, Crediton.

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

- There had been an update with regard to Condition 3 in that a demolition method statement and supporting information had been received from the applicant which had been accepted by the Local Highway Authority and was recommended to become a compliance condition.

- Clarity with regard to Condition 4 which had been recommended by the Council's Conservation Officer stated that there should not be any demolition to the footings due to potential archaeological interest and that it would only be demolition by hand within 2 metres of the adjoining neighbouring property.
- There had been 2 additional representations made from:
 - (a) Historic England stating that they had no further comments other than to refer the matter to the Council's Conservation Officer.
 - (b) A neighbour outlining concerns with the development and the potential lack of information online.
- The reason for the planning application was due to there being no permitted development rights as it related to a drinking establishment.
- Building Control and the local Highway Authority had been involved in the works undertaken which had resulted in a road closure, with a diversion in place, as scaffolding had to be erected to ensure the building was stable.
- The main issues raised were:-
 - (a) Policy/Principle and procedure
 - (b) Loss of the community facility
 - (c) Highways issues
 - (d) Impact upon setting of listed buildings/structures
 - (e) Impact on amenity
 - (f) Impact on ecology/biodiversity
 - (g) Land drainage/flood risk
- Following a site inspection and professional advice from structural engineers, Building Control concluded that it would be unsafe to attempt to repair the building, and that demolition would be the only safe and viable option.
- Demolition would allow the re-opening of the road and work could commence the beginning of next week.
- With regard to the impact upon the setting of listed buildings the Conservation Officer noted that this was outweighed by public safety.

Discussion took place regarding:-

- Why the building had not been maintained by the Council. It was explained that this was not a listed building and that it was not the Council's responsibility for the protection of all buildings within the District.
- Whether there was a Neighbourhood Plan for the area. It was confirmed there was not a Neighbourhood Plan.
- Whether there was any control with regard to the replacement of the building. It was confirmed that Policy DM2 would not apply in this instance, given that this was an application only for demolition and policy wording did not cover the need for a replacement building following this type of situation.

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

(Proposed by Cllr G Cochran and seconded by Cllr G Duchesne)

Notes:-

- (i) Cllr N Letch abstained from voting
- (ii) Olivia Ambrose spoke as the Applicant
- (iii) Cllr N Letch spoke as the Ward Member

2. 24/01571/FULL - Change of use of 6 bed house in multiple occupancy (Class C4) to 7 bed house in multiple occupancy (Sui Generis) and associated works at 5 St Paul Street, Tiverton, Devon.

The Chair asked the Area Team Leader to explain the meaning of “Sui Generis”. It was explained that it was used when an application did not fall within a planning “used class”.

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

- The property was a Grade 2 listed building and currently had permission for a multiple occupation house up to 6 bedrooms.
- The application was to change the use of the property to a 7 bed roomed house with multiple occupation to provide temporary accommodation for homeless people.
- The application was to consider the proposed external works and the change of use to the listed building.
- The main issues raised were:-
 - (a) Principle of development (change of use)
 - (b) Design and impact on surroundings
 - (c) Heritage impact
 - (d) Highways and parking
 - (e) Flood risk
- Heritage impact was the key issue due to the installation of vents and extractors.
- With regard to flood risk there was a flood risk evacuation plan provided and residents would be made aware of how to evacuate effectively. There would be no additional housing proposed on the ground floor.
- The Council’s Conservation Officer had raised objections to the proposal mainly on the basis that the works included the introduction of en-suite bathrooms which would cause damage to the historic fabric of the building and also the plan form.
- The application had since been amended to include bathrooms on the ground floor only with bathroom pods being inserted on the first floor.
- The building was currently in a dilapidated state however it retained its original plan form in terms of the openness of the rooms and the layout of the property.
- With regard to preserving the listed building, its setting and features of special architectural or historical interest, the ~~Conservation~~ Officer noted that this was outweighed by the public benefit of the proposal.

Discussion took place regarding:-

- The amount of bedrooms that the accommodation could offer.
- Whether the toilets and showers met the development standards. It was confirmed that they did comply with the national space standards.
- The support offered to tenants with regard to their mental health and safety.

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

(Proposed by Cllr L G J Kennedy and seconded by Cllr C Harrower)

Notes:-

- (i) Cllr N Letch and Cllr G DuChesne voted against the application
- (ii) Sam Barnett, Mid Devon District Council spoke as the Applicant
- (iii) Cllr C Harrower spoke as the Ward Member.

3. 24/01572/LBC - Listed Building Consent for alterations to ground floor, first floor and second floor layouts, replacement of sill/rail and glazing bars on 4 windows, replacement of dormer windows with associated external alterations at 5 St Paul Street, Tiverton, Devon.

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

- The property was a Grade 2 listed building.
- The application focussed on the alterations to the property which included:-
 - (a) Layout of the bedrooms
 - (b) Replacement of the seal and rail on existing windows
 - (c) The glazing bars on 4 windows and the replacement of the front door window
 - (d) External alterations
- The main issue raised was the heritage impact.
- Whilst there was harm to the historic fabric of the building and the significance of the heritage asset, this was outweighed by the public benefit of the proposal.

There being no discussion it was **RESOLVED** that listed building consent be granted subject to conditions.

(Proposed by Cllr F J Colthorpe and seconded by Cllr C Harrower)

Notes:-

- (i) Cllr N Letch abstained from voting.
- (ii) Cllr G DuChesne voted against the application.
- (iii) Sam Barnett, Mid Devon District Council spoke as the Applicant.
- (iv) Cllr C Harrower spoke as the Ward Member.

*List and report previously circulated.

31 MAJOR APPLICATIONS WITH NO DECISION (02:14:56)

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

The Committee agreed the following:-

1. 25/00954/MFUL - Erection of factory building with integrated office space, associated parking, service yard, landscaping, drainage infrastructure and alterations to site access to remain delegated as per the report.

Note: *List previously circulated.

32 APPEAL DECISIONS (02:15:21)

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

Note: *List previously circulated.

(The meeting ended at 16:31)

CHAIR

PLANNING COMMITTEE AGENDA - 20th August 2025

Applications of a non-delegated nature

<u>Item No.</u>	Description
01.	<p>25/00752/FULL - Variation of Condition 3 of planning permission 22/00432/FULL (Erection of 5 dwellings) to allow substitute plans relating drainage at Land at NGR 306758 113093, (South Of Allotment Gardens), Clay Lane.</p> <p>RECOMMENDATION Grant permission subject to conditions.</p>
02.	<p>25/00825/HOUSE - Erection of replacement single storey extension to include external access ramps to improve accessibility at 50 Francis Crescent, Tiverton, Devon.</p> <p>RECOMMENDATION Grant permission subject to conditions</p>
03.	<p>25/00356/FULL - Demolition of former accommodation block known as "Nazareth" and erection of 1 dwelling and detached garage at Land at NGR 281381 97496, Former Posbury St Francis, Posbury.</p> <p>RECOMMENDATION Grant permission subject to conditions and the signing of a S106 agreement to secure.</p>

Application No. 25/00752/FULL

Grid Ref: 306816 : 113087

Applicant: Mr Mark Linney

Location: Land at NGR 306758 113093
(South Of Allotment Gardens)
Clay Lane
Uffculme

Proposal: Variation of Condition 3 of planning permission 22/00432/FULL (Erection of 5 dwellings) to allow substitute plans relating drainage

Date Valid: 30th May 2025



APPLICATION NO: 25/00752/FULL

Site Visit: Yes

Date of Site Visit: 11th June 2025

Decision Delayed Reason:

To allow the application to go before the Planning Committee.

MEMBER CALL-IN

The application was called in by Cllr Andrea Glover to discuss:

- Ground condition investigatory work
- Neighbourhood amenity
- Hedgerow removal

Cllr Glover's full comments are viewable in the Consultations section later in this report.

RECOMMENDATION

Grant planning permission subject to conditions.

PROPOSED DEVELOPMENT

The application is for the variation of Condition 3 of planning permission 22/00432/FULL (Erection of 5 dwellings) to allow substitute plans relating drainage at land South of Allotment Gardens, Clay Lane, Uffculme.

Condition 3 relates to drainage and states:

"Drainage shall be carried out in accordance with the approved details in drawing no. 0944.100 unless otherwise agreed with the Local Planning Authority. The approved details shall be so retained."

This application seeks to vary the condition to allow an alternative drainage scheme. The previously approved scheme proposed to retain surface water within the site using an infiltration system and directed foul water to a sewer along Clay Lane. With infiltration and surface water body connection proving unfeasible, the revised drainage scheme will connect to a surface water sewer on land east of the site with any excess flows contained within an attenuation basin. The revised foul water drainage scheme seeks to connect to an existing manhole to the south of the adjoining development site in order to avoid highways works being required on Clay Lane.

Members will recall that the Planning Committee have previously refused permission for the works despite an officer recommendation for approval under application reference 24/01618/FULL. The reason given was as follows:

"Insufficient information has been submitted to justify why the foul drainage water scheme cannot join the sewer at Clay Lane. Similarly, insufficient infiltration testing has been carried out to justify why infiltration is not a realistic surface water drainage solution. In the absence of sufficient evidence it is considered that this solution will result in unjustified impacts upon the amenity of neighbours and does not represent a clear understanding of the site contrary to Policies S1 and DM1 of the Mid Devon Local Plan (2013-2033)."

Following the previous refusal, additional infiltration testing has been carried out on the application site. In addition, the applicants have engaged a planning agent who has provided more comprehensive information to justify both the revised foul and surface water schemes in accordance with the destination hierarchy.

Members will also recall that the adjacent application site subject to planning permission reference 19/00914/FULL already benefits from approval for the same surface water arrangements as proposed under this application. The two sites are not within the same ownership but the developers are working collaboratively on some matters including drainage.

APPLICANT'S SUPPORTING INFORMATION

In support of the application, the submission includes:

- Foul Water Strategy
- Surface Water Strategy
- Proposed Plans
- Covering Letter
- Application Form

RELEVANT PLANNING HISTORY

18/00842/OUT - PERCON date 1st November 2018 Outline for the erection of 5 dwellings
19/00914/FULL - PERCON date 28th February 2020 Erection of 5 dwellings - Non Material Amendment 21/01858/NMA - Granted 10.12.2021
20/01066/ARM - PERMIT date 4th December 2020 Reserved Matters for the erection of 5 dwellings following Outline approval 18/00842/OUT
21/01858/NMA - PERMIT date 10th December 2021 Non Material Amendment for
22/00432/FULL - PERCON date 20th October 2022 Erection of 5 dwellings
24/01281/FULL - WDN date 12th September 2024 Variation of Condition 3 of Planning Permission
22/00432/FULL - Erection of 5 dwellings - to allow amended drawings in relation to drainage
24/01618/FULL - REFUSE date 13th March 2025 Variation of Condition 3 of Planning Permission
22/00432/FULL - Erection of 5 dwellings - for revised plans in relation to drainage

DEVELOPMENT PLAN POLICIES

Mid Devon Local Plan 2013 – 2033

S1 Sustainable development
S9 Environment
S13 Villages
S14 Countryside
DM1 High quality design
DM25 Development affecting heritage assets

DCC Minerals Safeguarding SPD

CONSULTATIONS

Uffculme Parish Council 16th June 2025:

The Parish Council objects to this planning application. The proposed variation, along with the replica plans for 24/01618/FULL, continues to present a material nuisance to neighbouring properties, causing undue distress to residents and leading to a loss of hedgerows adjacent to a

conservation area, thereby failing to preserve the character and setting of the local environment, a key material planning consideration under both national and local policy.

There continues to be insufficient trial pits and investigatory work to accurately determine the soil infiltration rate specific to this site, not the adjacent development. This absence of site-specific geotechnical data compromises the feasibility and long-term sustainability of any proposed drainage strategy, which is critical for assessing flood risk and ground conditions - both being material planning issues.

The recent infiltration testing was not conducted on the area within the development boundary but on neighbouring land, thus failing to satisfy the requirements set out in the original refusal of application 24/01618/FULL. Moreover, the testing does not appear to comply fully with the BRE Digest 365 (DG365) standard, as outlined in the latest technical memo (ref HCE 0994). This lack of compliance represents a failure to address material engineering and environmental standards necessary to support surface water drainage planning.

While the applicant references Devon County Council (DCC) Highway Authority's position on restricting connections to the highway surface water system, there remains no supporting material justification for not exploring options to upgrade the development to an adoptable standard. This would allow a connection into the existing and strategically located Clay Lane highway drain, a route that appears to have been prematurely discounted without adequate technical or feasibility assessment - both of which are material to infrastructure planning and drainage hierarchy compliance.

Furthermore, the potential for a sewer connection via Chapel Hill remains insufficiently explored. Although it may pose a higher cost to the applicant, economic considerations of the developer are not material, whereas the ability to mitigate flood risk and impact on neighbouring properties is. Given the proposed scale of the drainage system (300m reach for 10 dwellings), this alternative appears viable and should be further evaluated as a matter of proper drainage planning.

It is also noted that South West Water continues to issue generic advice without conducting a site specific assessment, despite the sensitive nature of the location and proximity to existing dwellings and conservation boundaries. This undermines the integrity of the consultation process. The Parish Council requests a formal referral to South West Water for a bespoke consultation response, including exploration of alternatives within the public sewer network, which should be assessed prior to considering private land solutions.

The cumulative failure to carry out required investigatory and technical work – particularly related to ground conditions, drainage capacity, and compliance with statutory technical standards - illustrates a disregard for material planning policies relating to environmental protection, infrastructure adequacy, and the amenity of existing residents.

Note – Further correspondence has been received by the Clerk of Uffculme Parish Council. This does not form part of the formal consultation response but can be viewed online on the public planning portal.

Cllr Glover, 3rd July 2025:

The cumulative failure to carry out necessary technical work—particularly in relation to ground conditions, drainage capacity, and compliance with statutory standards—illustrates a disregard for material planning policies on environmental protection, infrastructure adequacy, and resident amenity.

Relevant Policy:

NPPF, Paragraph 130: Planning decisions should ensure development is “sympathetic to local character,” and creates places with a “high standard of amenity for existing and future users.”

Mid Devon Local Plan DM1(b, c, d): Requires that development does not have unacceptable impacts on the privacy and amenity of neighbouring properties, avoids flood risk, and meets infrastructure needs.

NPPF, Paragraph 167: “When determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere.”

The potential for a sewer connection via Chapel Hill also remains insufficiently explored. While possibly more costly, the economic considerations of the developer are not material, whereas the ability to mitigate flood risk and protect neighbouring amenity is.

Relevant Policy:

NPPF, Paragraph 180(a): Planning decisions should ensure that “new development is appropriate for its location,” considering the “cumulative impacts from existing uses” and risks.

Mid Devon Local Plan Policy S9 & DM1 (b): Development must not harm the amenity of neighbouring uses and must mitigate environmental risks such as flooding.

The proposal continues to present a material nuisance to neighbouring properties, causing undue distress to residents and leading to a loss of hedgerows adjacent to a conservation area, thereby failing to preserve the character and setting of the local environment, a key material planning consideration under both national and local policy.

Relevant Policy:

NPPF (2023), Paragraph 174(a): Decisions should contribute to and enhance the natural and local environment by “protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils.”

NPPF, Paragraph 199: “Great weight should be given to the conservation of heritage assets... the more important the asset, the greater the weight should be.”

Mid Devon Local Plan Policy DM25: Development proposals affecting heritage assets and their settings must sustain and enhance their significance, including through the protection of hedgerows and landscape character.

Public Health, 23rd June 2025:

We have considered the proposed variation and, as the foul drainage will be to a mains sewer, we have no comments to make regarding this. Surface water drainage is not within the environmental health remit.

Highway Authority, 5th June 2025:

The Highway Authority has considered this application and has no comments to make.

DCC Minerals, 4th June 2025:

Planning applications for the variation of a condition are exempt from the need to consult the mineral planning authority unless the condition had been requested by the MPA, as explained in our Mineral Safeguarding SPD.

South West Water, 24th June 2025:

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)

SWW Surface Water Sewer

Having reviewed the current information for the proposed surface water disposal for this development (domestic roof and driveway run off only) discharging to the public surface water sewerage network meets with the Run-off Destination Hierarchy.

Following infiltration testing, the developer has confirmed the site is not viable for infiltration methods.

Further to correspondence between the developer and SWW, it has been agreed the developer can connect this development of 5 dwellings (plus 5 dwellings permitted on the adjacent site to the West) to the SWW surface water sewer, in conjunction with an attenuation tank and provision of water butts and rain planters for each property. Drawing no. 0944.450 (May 25) is noted as the updated version for this proposal.

Where third party land is required to achieve connection to SWW infrastructure, SWW are able to requisition the laying of sewers under our statutory powers, where the landowners consent is not forthcoming.

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.

REPRESENTATIONS

This planning application has been advertised by means of a site notice erected by the case 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 July 2020.

The following properties were written to:

Eastfield Ashley Road Uffculme Cullompton Devon EX15 3AY
Hill View Clay Lane Uffculme Cullompton Devon EX15 3AJ
Shambles Clay Lane Uffculme Cullompton Devon EX15 3AJ
5 Eastfield Orchard Uffculme Cullompton Devon EX15 3AS
Ashley Lodge Ashley Road Uffculme Cullompton Devon EX15 3AY
Sunnydene Clay Lane Uffculme Cullompton Devon EX15 3AJ
Springfield Clay Lane Uffculme Cullompton Devon EX15 3AJ
9 Eastfield Orchard Uffculme Cullompton Devon EX15 3AS
8 Eastfield Orchard Uffculme Cullompton Devon EX15 3AS
7 Eastfield Orchard Uffculme Cullompton Devon EX15 3AS
3 Eastfield Orchard Uffculme Cullompton Devon EX15 3AS
3 The Spinney Uffculme Cullompton Devon EX15 3PB
2 The Spinney Uffculme Cullompton Devon EX15 3PB
Wellands Barn Clay Lane Uffculme Cullompton Devon EX15 3AJ
Nonesuch Clay Lane Uffculme Cullompton Devon EX15 3AJ
1 The Spinney Uffculme Cullompton Devon EX15 3PB
Eastfield Cottage Ashley Road Uffculme Cullompton Devon EX15 3AY
High Banks Clay Lane Uffculme Cullompton Devon EX15 3AJ
Eastfield Cottage 13 Ashley Road Uffculme EX15 3AY
Eastfield Ashley Road Uffculme Cullompton Devon EX15 3AY

A total of 2 letters of objection have been received at the time of writing this report. They are available to read in full on the public planning portal but the key points are summarised below:

- Impact on trees and hedgerows
- Maintenance of the attenuation basin
- Impact on amenity
- Alleged lack of site visit from South West Water

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The main issues in the determination of this application are:

1. Principle of development
2. Drainage and flood risk
3. Neighbourhood amenity
4. Impact on Conservation Area
5. Ecology, trees and hedgerows
6. Other matters
7. Planning balance

1. Principle of development

- 1.1. The principle of residential development on the site was established under application reference 22/00432/FULL when approval was granted for 5 dwellings. At the time of

writing this report, the planning permission remains extant. The site immediately to the east also benefits from permission for 5 dwellings. Whilst the sites are in different ownerships, developers have worked collaboratively on matters including drainage.

- 1.2. This is a Section 73 application which seeks to amend Condition 3 of application reference 22/00432/FULL. The condition related to drainage and required the development to proceed in accordance with the previously approved drainage scheme. Following infiltration testing on the site, the previous approach to surface water drainage is no longer considered feasible and this application seeks to alter the surface water drainage strategy. Similarly, following discussions with the Highway Authority and the installation of a foul water manhole to the south of the adjacent site in 2023, it is also proposed to alter the foul water strategy.

2. Drainage and flood risk

Flood risk

- 2.1. The site is in Flood Zone 1 which represents the lowest probability of sea or river flooding as per Environment Agency guidance. As above, the principle of development has been established and a revised drainage scheme is not considered to increase flood risk. The revised drainage schemes proposed are assessed in more detail below.

Surface water

- 2.2. With regards to surface water drainage, South West Water set out that applicants should demonstrate to the LPA that prospective surface run-off will discharge as high up the hierarchy of drainage options as is reasonably practicable. The hierarchy is as follows:
 1. Water re-use (e.g. rainwater harvesting)
 2. Infiltration
 3. Discharge to a surface waterbody
 4. Discharge to a surface water sewer, highway drain or other system
 5. Discharge to a combined sewer
- 2.3. The original approval for 5 dwellings included a scheme for infiltration. Following infiltration testing on the application site and adjacent site, the developers found that this method would not be feasible due to the clay-like ground conditions. However, members previously refused planning permission to vary the drainage condition due to insufficient infiltration testing with the majority taking place on the adjacent site. Significantly more infiltration testing has now been carried out on the site subject to this application with the detailed results submitted as part of the submission. The Parish Council and others state that testing has still not been carried out on the development site but this is not correct. Five trial pits were dug on the application site, they were evenly spread across the site in the location of each of the proposed dwellings. Water levels did not drop sufficiently in any of the pits which indicates that infiltration is not a feasible solution on this site as per the professional reports. Officers therefore consider that this increased testing has addressed the previous reason for refusal.
- 2.4. The next option on the drainage hierarchy is discharge to a surface water body. As before, the nearest waterbody is the River Culm some 320m from the site. Any route to the River Culm would need to pass through the main built-up area of Uffculme and require permission from the riparian owner. It is not considered reasonable or practical

to insist on this approach, thus also ruling out connection to a surface water body. It has been raised as to whether there are other, smaller, surface water bodies between the site and the River Culm. The applicant's agent has confirmed that these were considered but none were large enough to practically act as a discharge location. It is important to note that matters in relation to waterbody discharge did not form part of the previous refusal reason and members should be wary of introducing new refusal reasons at this stage.

- 2.5. The next step on the hierarchy is discharge to a surface water sewer, highway drain or other system. Highways have ruled out connection to a highways drain so connection to a regular surface water sewer is required. This is the option proposed with a surface water sewer located approximately 170m from the site boundary and adjacent to the adjacent development site. Whilst other connection points have been considered by the applicant, this sewer has already been approved for use in association with the adjacent development site and therefore it is logical for it to be used. South West Water have confirmed that the sewer benefits from the necessary capacity and raise no objections to the application. Whilst it is unfortunate that this approach results in work on third party land, it is crucial to note that these works have already been approved via the adjacent approval and South West Water have requisition powers under the General Permitted Development Order to carry out works on third party land where necessary. The permitted development legislation requires SWW to restore land to its former condition as soon as reasonably practicable. Given that the scheme has already been approved for the adjacent site and given SWW's powers and lack of objection, there are no officer concerns with this approach.
- 2.6. Flows into the sewer are controlled by SUDS in the form of an attenuation tank. Attenuation tanks are common SUDS solutions and considered to be very reliable. In this case, the tank will be managed by a management company funded by the occupiers of the development. Members will be aware from the last application that MDDC have enforcement powers to address any unlikely failings. Overall, the introduction of SUDS is considered to be a positive.
- 2.7. Overall, the previous refusal reason in relation to infiltration testing has been addressed and the surface water drainage scheme continues to meet the destination hierarchy. There are no safety or other concerns to preclude this approach.

Foul water

- 2.8. The previously approved foul water drainage scheme involved connection to a sewer on Clay Lane. The previous application was refused due to lack of information with regards to this. This submission is more detailed and it has now been clarified that the previous approach would have involved highway works on Clay Lane. The applicant's agent has indicated that this would impact a 90 metre stretch of the road and road closures would be required. In addition, it has been clarified that a foul drain was constructed outside of but adjacent to the neighbouring development site in 2023. This information was not forthcoming during the assessment of the last application and as such, the additional information is considered to address the previous refusal reason (lack of information).
- 2.9. The proposed foul water approach meets the necessary requirements, it has been developed by qualified drainage engineers with no objection from South West Water or Public Health. The lack of road closures from the revised approach are considered to be a public benefit compared with the previously proposed Clay Lane connection.

Overall, officers remain satisfied with the revised foul drainage scheme and consider the previous refusal reason to be addressed.

3. Neighbourhood amenity

- 3.1. DM1 of the Local Plan refers to high quality design and seeks to protect neighbourhood amenity. As addressed above, the revised drainage scheme is considered to be safe and meet the necessary requirements. Whilst there will be some works on third party land resulting in some temporary and minor harm, these works have been approved via the adjacent development approval and SWW have permitted development rights to undertake the works in any event. The PD rights do also require SWW to make good any work as soon as is practicable. It should also be noted that the revised scheme removes the need for a road closure which has a benefit to broader public amenity. This additional information and additional testing that has been carried out is considered to address the previous refusal reason in relation to amenity. Officers consider DM1 to be complied with.

4. Impact on Conservation Area

- 4.1. In coming to this decision the council must also be mindful of the duty as set out in section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 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.
- 4.2. In addition, DM25 of the Local Plan seeks to protect and, where possible, enhance heritage assets and their settings. The site is immediately adjacent to the Uffculme Conservation Area but the principle of development has previously been established and remains extant. The proposal seeks only to amend the drainage scheme which largely relates to below ground works. Developers will still be required to build the development in accordance with the approved plans which were not considered harmful to the Conservation Area. Any works undertaken by SWW on third party under the General Permitted Development Order are subject to a condition requiring the undertaker to make good any changes as soon as is reasonably practicable. Impact on the Conservation Area was not a previous refusal reason and overall, the Conservation area is protected in accordance with Policy DM25.

5. Ecology, trees and hedgerows

- 5.1. Concern has been raised in relation to impacts on ecology, trees and hedgerows amounting from the proposal albeit this was not a reason for refusal on the last application.
- 5.2. The proposed development is for a revised drainage scheme – drainage works are required to be carried out regardless so it is not expected that the revised proposals will have an increased impact compared with the previously approved scheme.
- 5.3. The original consent included a condition requiring adherence to an Ecological Impact Assessment which would be brought forward to this permission. This is considered to protect ecology and biodiversity. As above, SWW would be required to make good any works that are undertaken through the General Permitted Development Order. The Tree Officer was consulted on the previous application and raised no objections. In terms of the off-site works, trees within the adjacent Conservation Area are protected in

any event, as are any nearby trees subject to a TPO. Applicants are reminded of their responsibilities via an Informative Note. Off-site works would also need to comply with any relevant Habitat or Hedgerow Regulations. The previous condition in relation to works to hedgerows, trees or root protection areas has been reworded and carried forward to this consent. Overall, the revised drainage proposal are not considered to result in an increased impact upon ecology, trees or hedgerows.

6. Other matters

- 6.1. Where necessary, conditions from the original planning permission have been reworded and carried forward onto this S73 consent.
- 6.2. The application site is within the Minerals Consultation Zone but DCC Minerals and Waste raise no comments.
- 6.3. This is a revised application which includes additional information to address the previous refusal reasons. Members should be aware that the applicant's agent has confirmed that applicants are likely to appeal any future refusal with a costs application also to be considered.

7. Planning balance

- 7.1. The principle of residential development has been established and remains extant. The revised drainage schemes meet the necessary guidance and hierarchies and are considered safe. It is considered that previous refusal reasons have been addressed. Works on third party land will need to be made-good and there is an amenity benefit from the revised schemes in that Clay Lane will not need to be closed for foul water works. Given the extent of the proposals extend to a revised drainage scheme, there are no significant concerns in terms of ecology, biodiversity, design or impacts on the Conservation Area. As such, the scheme complies with policies S1, S9, DM1 and DM25 of the Mid Devon Local Plan (2013-2033) and guidance in the National Planning Policy Framework.

REASON FOR APPROVAL

The proposed variation of Condition 3 of planning permission 22/00432/FULL (Erection of 5 dwellings) to allow substitute plans relating drainage at land South of Allotment Gardens, Clay Lane, Uffculme is considered acceptable. The previous refusal reasons have been addressed and the revised drainage scheme is considered acceptable. There are no significant adverse impacts in terms of design, amenity, ecology, biodiversity or the character of the Conservation Area. As such, the proposal complies with policies S1, S9, DM1, and DM25 of the Mid Devon Local Plan (2013-2033) and guidance in the National Planning Policy Framework.

CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from the 20th October 2022, being the date of the original permission.
2. The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice, being those approved under application reference 22/00432/FULL and as amended on this decision notice.

3. Drainage shall be carried out in accordance with the approved details in drawing no. 0944.450 (Foul and Surface Water Drainage Layout Sheet 1, May 2025) unless otherwise agreed with the Local Planning Authority. The approved details shall be so retained.
4. The development shall proceed only in accordance with the Construction and Environmental Management Plan dated October 2022 (revised 25.11.2022) as approved on the 9th December 2022.
5. The development shall proceed only in accordance with the Revised Tree Staking Notes (DFT-GHL-CL-02) and Landscaping Plan (DFT-GHL-CL-02) unless otherwise agreed by the Local Planning Authority. If any additional works to hedgerows, trees or that could impact root protection areas are proposed, further information on species selection and proposed planting design shall be submitted to and approved by the Local Planning Authority.
6. The development shall proceed only in accordance with the Noise Management Plan dated 2nd February 2023 as approved on the 13th of April 2023.
7. All planting comprised in the approved details of landscaping as shown on drawing nos. DFT-GHL-CL-02, 1013,81-03 rev D and CT_6403.22_TPP shall be carried out in the first planting season, following the occupation of the dwelling hereby permitted or substantial completion of the development, whichever is the sooner, and any trees or plants which within a period of five 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. The landscaping scheme shall be so retained.
8. Unless otherwise agreed in writing by the Local Planning Authority, the development hereby permitted shall be implemented strictly in accordance with the recommendations and requirements of the ecological survey report undertaken by South West Ecology and dated 8th July 2022.
9. Only external lighting that was approved by the Local Planning Authority on the 13th April 2023 shall be installed.
10. Notwithstanding the provisions of Article 3 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) no development of the types referred to in Classes A, B, C, D, E, F, G of Part 1, or Classes A, B of Part 2 of Schedule 2, relating to boundary enclosures, sheds and structures, and access shall be undertaken within the application site without the Local Planning Authority first granting planning permission.

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 in the interests of proper planning.
3. To prevent increased flood risk in accordance with S9 and DM1 of the Mid Devon Local Plan (2013-2033).
4. In the interest of public safety and to avoid damage to the highway.
5. In order to protect existing trees and biodiversity in accordance with DM1 of the Mid Devon Local Plan (2013-2033).
6. To protect the amenity of future occupiers in accordance with DM1 of the Mid Devon Local Plan (2013-2033).
7. To ensure that the development makes a positive contribution to the character and amenity of the area in accordance with DM1 of the Mid Devon Local Plan (2013-2033).
8. To safeguard statutorily protected species in accordance with the Wildlife and Countryside Act (1981) and the Habitats Regulations (2010).
9. To safeguard statutorily protected species in accordance with the Wildlife and Countryside Act (1981) and the Habitats Regulations (2010).

10. To protect the character and appearance of the area and neighbourhood amenity in accordance with DM1 of the Mid Devon Local Plan (2013-2033).

INFORMATIVES

1. The developer is reminded that any off-site works undertaken that would impact the health of any trees, including impact on their roots, within the adjoining Conservation Area or that are protected by a Tree Preservation Order, would require any necessary applications for consent to carry out works to those trees (consent for works to trees in conservation areas or protected by a TPO). This would apply to any works carried out by the developer or by South West Water as a statutory undertaker.

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

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

BNG – Biodiversity Net Gain

Is BNG Required? **No**

Is BNG Offsite only **N/A**

Onsite only **N/A**

Offsite and Onsite **N/A**

Is a S106 agreement required? **N/A**

• *if the application is exempt please delete as appropriate*

S73 application – original permission granted prior to 12th February 2024

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.

3. The planning permission was granted on an application made under section 73 of the Town and Country Planning Act 1990 and

- (i) the original planning permission to which the section 73 planning permission relates* was granted before 12 February 2024; or
- (ii) the application for the original planning permission* to which the section 73 planning permission relates was made before 12 February 2024.
- i) has an area no larger than 0.5 hectares; and
- ii) consists exclusively of dwellings which are self-build or custom housebuilding (as defined in section 1(A1) of the Self-build and Custom Housebuilding Act 2015).

Application No. 25/00825/HOUSE

Grid Ref: 297150 : 112221

Applicant: Sharon Macey

Location: 50 Francis Crescent
Tiverton
Devon
EX16 4EP

Proposal: Erection of replacement single storey extension to include external access ramps to improve accessibility

Date Valid: 10th June 2025



APPLICATION NO: 25/00825/HOUSE

CALL IN REASON

This application is required to be considered by the Planning Committee, in line with the Council's adopted Scheme of Delegation, as the applicant is a member of staff at Mid Devon District Council.

RECOMMENDATION

Grant permission subject to conditions

PROPOSED DEVELOPMENT

The proposed development is for the demolition of an existing single-storey brick and UPVC glazed extension and the construction of a new replacement single-storey extension with external access ramps to improve accessibility of the dwelling.

The application site is located on Francis Crescent, Tiverton, which is within the defined Settlement Limit and comprises a semi-detached single-storey dwelling with gardens to the front and rear. The property backs onto the Grand Western Canal Country Park Local Nature Reserve. The dwelling is not listed, but the site is located within the setting of the Grand Western Canal Conservation Area.

The proposal seeks to replace an existing modest extension with a larger single-storey extension to the rear (northeast) elevation. The extension and alterations would incorporate external access ramps and create consistent floor levels throughout the dwelling to address the accessibility needs of one of the occupants who has medical requirements. The proposed extension would feature a flat roof with brick walls and white uPVC windows to match the existing dwelling, following amendments received to address the concerns of the Council's Conservation Officer regarding materials.

APPLICANT'S SUPPORTING INFORMATION

Application form, existing and proposed plans, supporting statement, ecological assessment, 3D visual representations.

RELEVANT PLANNING HISTORY

There is no relevant planning history.

DEVELOPMENT PLAN POLICIES

Mid Devon Local Plan 2013-33

S1 - Sustainable development priorities

S9 - Environment

S10 - Tiverton

DM1 - High quality design

DM3 - Transport and air quality

DM5 - Parking

DM11 - Residential extensions and ancillary development

DM25 - Development affecting heritage assets

Tiverton Neighbourhood Plan 2020 to 2033

T1 Location and scale of development in Tiverton

T4 Character of development

T5 Design of development

CONSULTATIONS

TIVERTON TOWN COUNCIL – 1st July 2025

Support. Discussed 30th June 2025 at Tiverton Town Council Planning Committee meeting. Chair stated this application had a slight extension to the footprint of the existing dwelling. Members discussed the application regarding the improved access, comfort and safety of the residents. All members in support of the application.

DCC HIGHWAY AUTHORITY – 30th June 2025

The Highway Authority has considered this application and has no comments to make.

SOUTH WEST WATER – 25th June 2025

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

Asset Protection

Please find attached a plan showing the approximate location of a public 150mm sewer in the vicinity. South West Water will need to know about any building work over or within 3 metres of a public sewer or lateral drain.

We will discuss with you whether your proposals will be affected by the presence of our apparatus and the best way of dealing with any issues as you will need permission from South West Water to proceed.

Further information regarding South West Water's build over of sewers process can be found on our website.

Should you require any further information, please contact our Asset Protection Team via email:

DeveloperServicesAssetProtection@southwestwater.co.uk

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)

No surface water strategy details were provided with this planning application. Please note that a discharge into the ground (infiltration) is South West Water's favoured method and meets with the Run-off Destination Hierarchy. Should this method be unavailable, SWW will require clear evidence to demonstrate why the preferred methods listed within the Run-off Destination Hierarchy have been discounted by the applicant.

CONSERVATION OFFICER – 24th July 2025

The principle of replacement of the existing conservatory to the 20th century bungalow is acceptable. The single storey extension proposed is much larger, but should not be problematic in terms of the impact on the setting of the canal conservation area, providing a few tweaks are made: I suggest that brick to match the existing house is used rather than render, and that the flat roof fascia board is darkened in colour. These two changes would reduce the visibility and impact of the structure on the canal while improving its appearance and making it more sympathetic to the host building.

REPRESENTATIONS

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

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

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The main material considerations for this application are considered to be that of:

- 1. Principle/Policy**
- 2. Impact on heritage assets**
- 3. High quality design**
- 4. Ecology and biodiversity considerations**
- 5. Accessibility and social benefits**
- 6. Highway safety and parking**

A summary assessment of the scheme against these considerations is set out below:

1. Principle/Policy

- 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 Mid Devon Local Plan 2013-2033 was adopted in 2020 and the Tiverton Neighbourhood Plan formally 'made' on the 14th December 2022 following a successful referendum held on the 17th November 2022. Policy DM11 of the Mid Devon Local Plan 2013-2033 permits extensions to existing dwellings provided that they:

- a) Respect the character, scale, setting and design of the existing dwelling;
- b) Will not result in over-development of the dwelling curtilage; and
- c) Will not have a significantly adverse impact on the living conditions of occupants of neighbouring properties.

- 1.3 The proposal comprises a replacement extension that is larger than the existing structure but remains single-storey and appropriately scaled to the host dwelling. Following amendments made in response to advice from the Conservation Officer, the extension is now proposed to be finished with brick to match the existing house and a darkened flat roof fascia board. These changes ensure the development respects the character, scale, setting and design of the existing dwelling while reducing visual impact when viewed from the Grand Western Canal Conservation Area. The extension incorporates external access ramps which are essential for addressing the accessibility needs of the occupants.
- 1.4 The property sits within a modest residential curtilage typical of the area. The extension replaces an existing structure and extends into an area currently comprising hardstanding patio. The development is considered to be of appropriate scale and does not result in over-development of the dwelling curtilage, maintaining adequate private amenity space.
- 1.5 The extension is positioned to the rear of the property and would not result in any adverse impact on neighbouring properties through overshadowing, overbearing impact or overlooking. The single-storey nature and positioning of the extension ensures adequate separation distances are maintained. No objections have been received from neighbouring properties.

2. **Impact on heritage assets**

- 2.1 The site is located within the setting of the Grand Western Canal Conservation Area. The Council have a statutory duty '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' (section 72 of the LB Act).
- 2.2 Policy DM25 - Development affecting heritage assets states that Heritage assets and their settings are an irreplaceable resource. Accordingly the Council will:
- a) *Apply a presumption in favour of preserving or enhancing all designated heritage assets and their settings;*
 - b) *Require development proposals likely to affect the significance of heritage assets, including new buildings, alterations, extensions, changes of use and demolitions, to consider their significance, character, setting (including views to or from), appearance, design, layout and local distinctiveness, and the opportunities to enhance them;*
 - c) *Only approve proposals that would lead to substantial harm or total loss of significance of a designated heritage asset where it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss or the requirements of the National Planning Policy Framework are met;*
 - d) *Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use; and*
 - e) *Require developers to make a proportionate but systematic assessment of any impact on the setting and thereby the significance of heritage asset(s).*
- 2.3 The Conservation Officer has confirmed that the principle of the development is acceptable and that the amendments made to the materials specification (brick walls and darkened fascia) adequately address concerns regarding visual impact on the conservation area setting.

The revised proposal is considered to preserve the character and appearance of the conservation area, in accordance with Policy DM25.

3. **High quality design**

- 3.1 Policy DM1 of the Local Plan seeks to ensure high quality design according to a number of principles, including ensuring development makes an efficient use of a site and creates safe, accessible and visually attractive places. The policy also seeks to avoid adverse neighbourhood amenity impacts. Policy T5: design of development of the Tiverton Neighbourhood Plan also outlines that 'Development proposals should incorporate a high quality of design, which responds and integrates well with its surroundings, meets the changing needs of local residents and minimises the impact on the natural and historic environment'.
- 3.2 The proposal demonstrates high quality design through its sympathetic approach to the existing dwelling. The use of matching brick materials, appropriate scale and the incorporation of accessibility features represents thoughtful design that enhances the functionality of the dwelling while maintaining visual harmony with the street scene and surrounding area. The development is therefore considered to comply with the above policies.

4. **Ecology and biodiversity considerations**

- 4.1 A comprehensive ecological assessment has been undertaken by Devon Ecology Ltd, a qualified ecological consultancy. The assessment identified negligible bat roost potential in the areas to be affected. Two old pipistrelle droppings were found in the loft but these were located at the gable end, well away from the proposed works area. The assessment concludes that no further bat surveys or Natural England licence will be required. The proposal includes ecological enhancement through the installation of a bat box. A condition has been recommended for this to be provided. As a householder application, the development is exempt from Biodiversity Net Gain requirements.

5. **Accessibility and social benefits**

- 5.1 The proposed development directly addresses the accessibility needs of an occupant with medical requirements. The external access ramps and consistent floor levels throughout the dwelling would significantly improve access, comfort and safety. This represents a clear social benefit that weighs in favour of the proposal and aligns with the Council's commitment to supporting inclusive design and independent living.

6. **Highway safety and parking**

- 6.1 The development is not considered to significantly affect existing parking arrangements or access to the public highway. The Highway Authority has raised no objections to the proposal. The proposal does not encroach on existing parking or access arrangements to the front of the property and therefore has no impact in respect to highway safety.

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". It is noted that this application relates to

works to improve accessibility whereby disability is a protected characteristic. In this case the proposals are supported.

CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice.
3. The external walls of the extension hereby permitted shall be constructed using brick to match the existing dwelling, and the flat roof fascia board shall be finished in a dark colour, all in accordance with the details shown on the approved plans.
4. The ecological enhancement measures detailed in the Devon Ecology Ltd report dated 4th June 2025, specifically the installation of a bat box on the southeast gable end near the apex, shall be implemented prior to first occupation of the extension and maintained thereafter.

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 in the interests of proper planning.
3. In the interests of visual amenity and to preserve the character and appearance of the Grand Western Canal Conservation Area, in accordance with Policy DM25 of the Mid Devon Local Plan 2013-2033.
4. In the interests of biodiversity enhancement in accordance with Policy DM1 of the Mid Devon Local Plan 2013-2033.

INFORMATIVES

1. Note from SWW to applicant:

If you are planning a new development or extending an existing property over, or within 3 metres of public assets you need to contact South West Water.

- Note: South West Water will not permit building within 4.5 metres of public water mains, sewage rising mains or sewers on a new development or redevelopment site. For more information please refer to the information on their website:
 - Clean water -- <https://www.southwestwater.co.uk/developer-services/water-services-and-connections/building-near-water-mains/>
 - Waste water - <https://www.southwestwater.co.uk/buildover>

2. Should any bats be discovered during the course of development works, all works must cease immediately and Devon Ecology Ltd (07786 564196) must be contacted for advice before works can recommence.

3. Should any active bird nests be discovered during development works, works must be delayed in the affected area until nesting has finished and chicks have fledged.

REASON FOR APPROVAL OF PERMISSION

The proposed development is considered to be acceptable, satisfactorily relating to the character and appearance of the existing property and its surroundings, particularly following the amendments made to address the concerns of the Conservation Officer. The development provides significant social benefits through improved accessibility for a disabled occupant. Furthermore, there will be no unacceptable impact on neighbouring living conditions as a result of the proposed development, no adverse impact on highway safety, and negligible ecological impact. The comprehensive supporting information demonstrates that all relevant considerations have been properly addressed. For these reasons it is considered appropriate to recommend approval with conditions necessary to ensure the success of the development in this location. The proposal therefore accords with policies S1, DM1, DM11 and DM25 of the Mid Devon Local Plan 2013-2033 and T1, T4, T5 of Tiverton Neighbourhood Plan 2020 to 2033 and guidance in the National Planning Policy Framework.

BNG – Biodiversity Net Gain

Is BNG Required? No

Householder development

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 which is subject of a householder application within the meaning of article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015. A “householder application” means an application for planning permission for development for an existing dwellinghouse, or development within the curtilage of such a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse which is not an application for change of use or an application to change the number of dwellings in a building

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. 25/00356/FULL

Grid Ref: 281381 : 97496

Applicant: Mr Charles Burnet-Hitchcock

Location: Land at NGR 281381 97496
Former Posbury St Francis
Posbury
Devon

Proposal: Demolition of former accommodation block known as "Nazareth" and erection of 1 dwelling

Date Valid: 19th March 2025



APPLICATION NO: 25/00356/FULL

Site Visit: Yes

Date of Site Visit: 4th April 2025

MEMBER CALL-IN

Called in by the Ward Member, Cllr Chenore. The main reasons being:

- The potential precedent set for future speculative demolition and rebuild applications in open countryside;
- The change of use of greenfield garden land and the associated character and policy implications

RECOMMENDATION

Grant permission subject to conditions and the signing of a S106 agreement to secure:

- The demolition of Nazareth House prior to occupation of the replacement dwelling and prevention of further development on this part of the site.

PROPOSED DEVELOPMENT

The applicant has sought planning permission for the demolition of former accommodation block known as "Nazareth" and erection of 1 dwelling at Land at NGR 281381 97496 Former Posbury St Francis, Posbury.

The application site is located at Posbury which is a small dispersed parish lying in the open countryside, approximately 3 miles south west of Crediton and 3 miles north of Tedburn St Mary, accessed through a network of country lanes. Posbury is the site of a medieval estate. The 'bury' element of the name derives from the hillfort to the south-west. Posbury St Francis is formed of a cluster of buildings which includes Posbury House, a former chapel, a former accommodation block built in the 1950s (Nazareth House), a bungalow known as Merrymeet and a former tractor shed, converted into accommodation for a nun. The present house dates from the early-mid 19th century and became a convent in 1942. The chapel was created within two former cottages at this time. The Grade I list church of St Luke's is located just over 140m to the North West of the site.

The application plot lies to the east of Posbury House and the proposed development is to be limited to a single storey dwelling. The plot was once the kitchen garden to the former convent and through planning permission for the conversion of the chapel and Nazareth House into two dwellings, became the domestic curtilage for Nazareth House. It contains areas of developing trees and scrub and grassland. The development would create a three bedroom dwelling and there is provision for a double garage to the north east. The site of this plot for the proposed dwelling is less than 50m away from Nazareth House, the building to be replaced.

The initial submission referred to this proposed development being for a self build dwelling, but this has been revised to an open market dwelling following discussion with the applicant where they would have the option to sell on the site but ensuring that the development was built in accordance with the plans submitted. The basis for this dwelling is as a replacement dwelling for Nazareth House whereby a case for betterment has been made.

APPLICANT'S SUPPORTING INFORMATION

Application Form
Design and Access Statement
Design Study
Ecological Impact Assessment
Climate Emergency Check List
Initial Air Quality Statement
Foul Drainage Assessment Form
3D Perspectives
Residential/Dwelling Units – Supplementary Information
Devon BNG Statement for Validation
BNG Metric

RELEVANT PLANNING HISTORY

20/01648/OUT - WDN date 6th April 2021 Outline hybrid application for the erection of 1 dwelling; and change of use of chapel to dwelling and demolition of accommodation block

21/00733/FULL - PERCON date 11th June 2021 Conversion of former convent buildings to 2 dwellings

24/01348/FULL - WDN date 9th December 2024 Erection of a holiday let

DEVELOPMENT PLAN POLICIES

Mid Devon Local Plan 2013 – 2033

Policy S1 - Sustainable development priorities
Policy S3 - Meeting housing needs
Policy S5 - Public open space
Policy S8 – Infrastructure
Policy S9 – Environment
Policy S14 – Countryside
Policy DM1 - High quality design
Policy DM3 - Transport and air quality
Policy DM4 – Pollution
Policy DM5 – Parking
Policy DM9 - Conversion of rural buildings
Policy DM25 - Development affecting heritage assets

National Planning Policy Framework

National Planning Practice Guidance

CONSULTATIONS

Crediton Hamlets Parish Council – 8th April 2025

Crediton Hamlets Parish Council objects to this application for the following reasons:

1) The application is to demolish the existing building and build a new home in a greenfield site. In the Council's opinion this does not fall within the criteria set out in MDDC Local Plan Policy S14

- 2) If permission is granted it will set a precedent for others to demolish existing homes and re-build elsewhere on greenfield land, simply because that suits the applicant.
- 3) The proposed new dwelling does not respect the style and character of the very small local community of nearby homes.
- 4) The applicant's planning statement suggests that the Planning Officer has already agreed to the proposal. This is misleading and will discourage local residents from commenting or even objecting.

Councillors ask that one of their MDDC Councillors call the application in to the Planning Committee if the Planning Officer is minded to grant permission.

Councillors recognise that the conversion/renovation of the existing building to modern day standards will be more problematic than a new build and they would be supportive of an application to re-build within the footprint of the existing building.

Crediton Hamlets Parish Council - 7th May 2025

Crediton Hamlets Parish Council objects to this application. Councillors agree that demolishing "Nazareth" will improve the aspect and general appearance of the hamlet. However, the proposal is to build a new dwelling in the old kitchen garden, which is a green field site and is some distance from the footprint of the building to be demolished.

Councillors are concerned that supporting the new building on a green field site will set an unfortunate precedent for other similar applications and Class Q fallback applications which come before them for comment. Councillors are not aware of a planning reason permitting the applicant's proposal and are therefore concerned as to how they can explain or justify supporting the application to other parties.

Councillors suggest that, if the Planning Officer is minded to approve the application, the consent should include a condition that no other development should be allowed in the kitchen garden.

If the Planning Officer is minded to approve Councillors request that the application be called in to the full Planning Committee because they are seeking clarity and transparency on the reasons for the decision and how it fits in planning policy.

Crediton Hamlets Parish Council - 3rd June 2025

Crediton Hamlets Parish Council continues to object to this application for the reasons set out in its comment dated 7th May. As before, the Council requests that the application be called in if the Planning Officer is minded to grant consent. The Council also suggests that, if consent is granted, it should include a condition that no other development should be allowed in the kitchen garden.

Conservation Officer – 20th May 2025

Removal of the 1940s block-built former priests' house would improve the setting of the chapel complex from the Grade II listed Chapel of St Luke, and also the inward-looking views between the former Posbury St Francis buildings. I consider that replacing this building with any form of structure would then re-erode the setting, and should be resisted. I therefore suggest that the land currently occupied by the structure be left open as ancillary land for one or both of the conversions.

The compromise of a relatively simple single storey dwelling on domestic land to the east would seem to be the best way to improve both the setting and amenity of the whole complex, providing that the new dwelling is not constructed or occupied until the former priests' house is removed.

Public Health – 2nd April 2025

We have considered the proposal and the initial air quality statement and have no concerns. The applicant proposes to install a new package treatment plant for foul drainage which will discharge cleaned water into the existing drains which terminate at a running watercourse. We do not anticipate any concerns regarding this as long as the integrity of the existing pipework is tested during the works.

Public Health – 29th April 2025

No additional comments - the applicant/developer will need to carry out a full survey of the surface water and foul drainage arrangements serving the property and any associated or nearby dwellings in order to ensure the integrity of all systems and suitable final provision. It appears from information provided by a resident that at present these arrangements are not clear and these works will provide the opportunity to ensure robust systems serving all the dwellings affected.

Public Health – 19th May 2025

Thank you for obtaining that clarification regarding foul drainage. I can confirm that this does address my comments and we have no outstanding concerns.

Public Health - 5th June 2025

Since our previous comment on 29th April the agent has clarified the current foul drainage arrangements and this has therefore resolved the query we had regarding this. We have no outstanding concerns regarding this proposal.

Rights of Way Officer -West – 31st March 2025

The Public Rights of Way Team has a duty to assert and protect the rights of the public to the full and free enjoyment of public rights of way and to maintain the network. In addition it is also responsible for the maintenance of recreational trails and unsurfaced roads.

Government guidance considers that the effect of development on a public right of way is a material planning condition (Rights of Way Circular 1/09 - Defra October 2009, paragraph 7.2) and that public rights of way and access should be protected and enhanced with opportunities sought to provide better facilities for users by adding links to existing networks (National Planning Policy framework paragraph 98).

Devon County Council's Rights of Way Improvement Plan policy states that, working closely with LPAs, opportunities will be sought for improvements to the rights of way network through planning obligations where new developments are occurring.

It is also the County Council's policy that a holding objection will be made against any planning application which fails to take account of an existing public right of way until the matter is resolved.

Response

The Public Rights of Way Team has no objection to the proposal but the applicant should be aware that the access to the development area as indicated on the plan is used by public footpath No16, Crediton Hamlets. Furthermore, despite the access track being public path, the Highways Authority is not responsible for its maintenance in relation to private vehicular use.

Information

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

If a temporary closure is required during construction works, e.g. for safety reasons, the applicant would need to apply to the County Council for a Temporary Traffic Regulation Order.

Further information about public rights of way and planning is available on our website here.

If permission is granted, please include as footnotes in the decision notice:

- The alignment, width, and condition of public rights of way providing for their safe and convenient use shall remain unaffected by the development unless otherwise agreed in writing by the Public Rights of Way Team.
- Nothing in this decision notice shall be taken as granting consent for alterations to public rights of way without the due legal process being followed.

Please do not hesitate to contact me if you would like further clarification.

Highway Authority – 9th April 2025

The Highway Authority has considered this application and recommends that it is dealt with using the Standing Advice procedure

<https://www.devon.gov.uk/planning/apply-for-planning-permission/get-help-with-an-application/guidance-for-applicants>

Highway Authority – 15th April 2025

The Highway Authority has no further comments to make regarding this application at this time.

Highway Authority - 29th May 2025

The Highway Authority has no further comments to make regarding this application at this time

South West Water – 26th March 2025

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, please note that method proposed to discharge into the ground (infiltration) is acceptable and meets with the Run-off Destination Hierarchy.

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

South West Water – 17th April 2025

South West Water has no additional comment.

South West Water – 4th June 2025

South West Water has no additional comment.

REPRESENTATIONS

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

2 letters of representation were received from a neighbouring property (from the same individual) objecting to the development. The points raised are summarised as follows:

- Demolition of an existing semi-detached dwelling to allow for a larger dwelling in a green field site in open countryside would set a precedent for others to follow suit.
- There are four absolute reasons to refuse this dwelling on a green field site, it is of no unique or special design, it is not the reuse of a heritage site, the application is not for an agriculturally tied dwelling and it is not the reuse of a redundant farm building.
- The Council's own Conservation Officer was adamant that the building Nazareth, had architectural merit and should remain. At that time the applicant was content to seek planning permission for conversion into a residential dwelling which was granted.
- The view, which the agent cites as being poor, is the side view of the estate from its private drive. The most public view is from the hill side opposite and shows fields leading up to the front aspect of Posbury House, where all the ancillary buildings (chapel, sheds, Nazareth & Merrymeet) are partially or wholly obscured by the main house. If the application is successful a dwelling built in the field directly in front of Posbury House would be prominent in the landscape.
- There are a number of inaccuracies in the application.
- The maps/plans show the storm water system from Merrymeet (and Posbury) discharging into the original septic tank which is not correct. All storm, surface water, springs and the over flow

from the reservoir above Merrymeet flow through the Chapel land, around Posbury House and discharge straight into the proposed site of the new build house.

- Merrymeet & Posbury House discharge foul water into the original septic tank. The applicant has already rerouted the foul water drain from Nazareth and The Chapel to cross the drive and discharge into a bio disk system in the same field.
- The positioning of the proposed new build puts it on top of the new bio disk system.
- This drainage system is part of a “phased development” by the applicant and should therefore be subject to greater restriction.
- There is currently no water source or drainage provision detailed for the new dwelling.
- The agent states there is no issue with foul drainage, storm & surface water drainage which is not true. Only a small percentage of the storm, surface & spring water drainage has been changed (in 2022) with the vast majority (from Posbury House, Merrymeet, the chapel, Nazareth & the reservoir) still flowing across Posbury land and directly into the field very close to the proposed build.
- The applicant has yet to disconnect Posbury House from the old septic tank and reconnect it to the new drainage system as they were contracted to do on the sale of Posbury in 2020. The application mentions any dust from both build and demolition is to be controlled by the spraying of water. However it does not mention what steps will be taken to limit the dangers from disturbing the waste pits dug right across the field and containing hazardous materials. This not only effects residents but a well used public footpath runs right along the boundary of the field.
- Perhaps a better solution from a planning, ecological, financial and public health perspective would be to granting permission to demolish the existing building and rebuilding on the same foot print.
- Contamination. The land in this field is contaminated with builders rubble and hazardous waste that was dumped in pits on site. Given the amount of storm, spring & surface water that runs into this field I would imagine these pits must be acting like huge sumps and the toxic stew they now contain needs to be dealt with as a matter of public safety if the land is going to be disturbed.
- Self build - no affordable build would have the characteristics required to be allowed an exemption under the rules for dwellings in open countryside.
- Ecology Report: The agent cannot simply dismiss the previous ecology report. Environmental matters should be paramount to us all and not disregarded because it pertains to the previous application for a holiday dwelling on the exact same spot.
- At no point has anyone ever claimed there were bats in the roof of Nazareth, they have their permanent roost in the Chapel roof. But these buildings are semi detached and the demolition of one cannot fail to have serious impact on the other which hasn't been addressed.
- Demolition of Nazareth - The agent discusses with the LPA the use of s106 orders which seems to indicate that the LPA are minded to approve the building of a house in open countryside. It should be noted that s106's are routinely over turned under the guise of incremental development and a plot of land easily big enough to build an 'infill' house on will not remain vacant for long.
- The property was only ever offered for sale without a garden, the field not being included in the sale. Once the chapel had been sold for approximately 400,000.00 pounds, offers over 200,000.00 pounds were being sought for Nazareth, unconverted and with no garden. Between the asking price, the lack of outdoor space and the deterioration (after the windows were removed in 2022) is it not surprising it failed to sell.

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The main issues in the determination of this application are considered to be those of:

- **Policy and principle of development**
- **Design and appearance of development and visual impact on landscape**
- **Impact on heritage assets**
- **Impact on the amenity of nearby residential properties**
- **Drainage/Flood Risk**
- **Ecology/Biodiversity Net Gain**
- **Highway, access and parking**
- **Other matters**
- **Planning balance**

1. Policy and principle of development

- 1.1 S.38[6] of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise. The National Planning Policy Framework 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 Relevant policies within the Mid Devon Local Plan 2013-2033 would be those of Policies S1 (Sustainable development priorities), S3 (Meeting housing needs), S8 (Infrastructure), S9 (Environment) and S14 (Countryside). Policy S14 (Countryside) of the Local Plan stipulates the circumstances in which development will be permitted in the open countryside, and the proposal does not meet any of the stated criteria.
- 1.3 It is noted that a Court of Appeal decision [Mansell v Tonbridge and Malling BC] concluded that a fall-back position could be considered whereby permitted development rights such as those under Class Q of Part 3 of Schedule 2 of the Town and Country (General Permitted Development)(England) Order 2015 (as amended) could be considered as a material consideration. In this case, planning permission exists for the conversion of Nazareth House into a dwelling which represents a fall-back position, which is a material consideration.
- 1.4 By way of background, planning permission 21/00733/FULL approved the conversion of former convent buildings to 2 dwellings at Chapel of St Francis, Posbury on the 11th June 2021 with the Chapel having been converted into a dwelling and now occupied, whereas Nazareth House is still to be fully converted into a dwelling.
- 1.5 A subsequent planning application, reference 24/01348/FULL was submitted for the erection of a holiday let in the grounds of the 'Kitchen Garden' to the east side of Posbury House where part of the justification put forward was to make the development of the conversion of Nazareth House more viable given that the applicant was finding it difficult to sell. This application was later withdrawn following concerns raised by officers that the need for holiday accommodation was not justified. This then led to discussions from the applicant to alternative proposals including the prospect of knocking down Nazareth House next to St Francis Chapel, it being a flat roof two storey extension which benefits from permission to conversion of dwelling, and have a replacement dwelling.
- 1.6 In 2021 it was advised that the building of the Chapel and Nazareth House was a non-designated heritage asset. Nazareth House is a two storey flat roof building which has been

joined to the Chapel of St Francis which already has an annexe attached to the south east corner. It appears that it was later addition to the building, not appearing in the RAF aerial photographs taken for 1946-49. The applicant made the case at the time that the extension appears at odds with the main building of the Chapel which is shown on tithe maps within a cluster of building including St Francis House to the south east however it was viewed as one entity by the Conservation Officer at the time as a non designated heritage asset and as such approval was given through 21/00733/FULL to the conversion of the buildings into two dwellings.

1.7 However, this was re-visited with the Council's Conservation Officer attending a site visit to observe the current building of Nazareth House and concluded that the building of Nazareth House is not worthy of retention and it would be better to remove it in order to improve views to the Chapel building behind which has also been converted into a dwelling. Therefore a fall back could be possible to achieve a betterment, noting that the 'kitchen garden' being the field to the east of Posbury House was to be the domestic curtilage for Nazareth House through planning permission 21/00733/FULL.

1.8 With respect to the planning merits of this planning application and the assessment required, the starting point for a consideration for a fall back dwelling is to whether the scheme represents a betterment to what can be achieved under the planning approval (21/00733/FULL), for the conversion of the building into a dwelling.

1.9 The case made for betterment focuses around:

- Improvement to the setting to the non designated heritage asset of the converted chapel
- The replacement of the two storey flat roof building with a detached single storey dwelling set lower in the landscape with the design and materials proposed being an improvement to the existing building and sympathetic to the rural surroundings.
- Having a low carbon footprint with improved energy efficiency through higher insulation and ground source heat pump.
- Improved relationship with neighbouring properties given that there are a number of windows in Nazareth House which overlook.
- Biodiversity net gain as the proposal incorporates ecological mitigation and enhancements across the site.

1.10 On balance, bearing in mind the particular circumstances of this case, it is considered that the principle of the proposal would be acceptable subject to meeting other policy requirements as will be discussed below.

2. Design and appearance of development and visual impact on landscape

2.1 Policy DM1 of the Local Plan states that the design of new development must be of high quality and demonstrate a number of principles, including efficient and effective use of the site, an understanding of the local context, and appropriate siting, layout, scale, and other design characteristics to ensure visually attractive and well integrated development. It also states that new housing should be designed to deliver high quality, taking account of context, local character, density, and land use mix.

2.2 The proposal put forward for a single storey dwelling on site built lower in the landscape with carbon reduction measures incorporated, replacing an existing building which has approval to be converted into a dwelling. The replacement dwelling is considered to be 'betterment, the

whole design is considered as being an improvement on the approved design of the conversion to the existing building, which was limited in architectural terms.

- 2.3 Nazareth House is a flat roofed two storey extension with the two storey element measuring approximately 4.6m wide by 13m in length with overall height ranging from 5.33m to 6m due to the change in ground levels around the building. There is also a single storey element measuring approximately 2.6m wide by 10m in length. The conversion scheme approved would see the creation of a 3 bedroom dwelling.
- 2.4 The proposed development is for a detached single storey dwelling and detached garage. The materials would be those of profile metal roofing and painted render and natural stone for walls. The dwelling would measure approximately 8.7m in width and 25m in length, being 4.5m high to the ridge of the pitched roof. The detached garage would measure 6.3m by 6.3m and be 3.8m high. Whilst the floor area of the new dwelling would be more than the conversion of Nazareth House, it is not considered that the uplift is substantial.
- 2.5 The assessment is based on whether the development represents a betterment to the fallback scheme. In this case, the materials proposed and the design is considered to be acceptable with the design approach considered to be supportable in accordance with Policy DM1 where the property would benefit from a suitable level of private amenity space reflecting the size, location, floor space and orientation of the property. Whilst the proposal to create a dwelling would result in an increase in habitable floor area, this has been achieved utilising a single storey building set lower in the landscape with a backdrop of trees with a two storey flat roof addition to the chapel being removed. The end result would be that the dwelling would not have a significant detrimental impact upon the wider landscape and the proposal would enable the Council to secure additional planting in addition to the removal of the more prominent building the subject of the extant permission for conversion.
- 2.6 On balance, it is considered that the proposal would result in an improvement compared to the fall-back position allowed by the approved development. Bearing in mind the fall-back position, and given the proposal's siting, scale, and design, it is considered that it would not result in unacceptable harm to the character of the area, subject to the use of materials referred to in the submission.

3. Impact on Heritage Assets

- 3.1 As noted earlier in the report, whilst there are no listed buildings within the cluster of building of Posbury St Francis, the chapel is considered to be a non designated heritage asset. In addition, the Grade I listed church is located to the north, albeit at some distance. Therefore consideration is required as to whether the development on this site would impact upon the setting of this heritage assets. The Council have a statutory duty to 'have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses' (section 66 of the LB Act).
- 3.2 The NPPF, para. 210, also requires 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.

3.3 Policy DM25 of the Local Plan 2013-2033 states:

Heritage assets and their settings are an irreplaceable resource. Accordingly the Council will:

- a) Apply a presumption in favour of preserving or enhancing all heritage assets and their settings;*
- b) Require development proposals likely to affect the significance of heritage assets, including new buildings, alterations, extensions, changes of use and demolitions, to consider their significance, character, setting (including views to or from), appearance, design, layout and local distinctiveness, and the opportunities to enhance them;*
- c) Only approve proposals that would lead to substantial harm or total loss of significance of a designated heritage asset where it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or the requirements of the National Planning Policy Framework are met;*
- d) Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this, harm should be weighed against the public benefits of the proposal, including securing its optimum viable use; and*
- e) Require developers to make a proportionate but systematic assessment of the impact on the setting and thereby the significance of heritage asset(s).*

3.4 As outlined by the Council's Conservation Officer, removal of the 1940s block-built former priests' house would improve the setting of the chapel complex from the Grade II listed Chapel of St Luke, and also the inward-looking views between the former Posbury St Francis buildings. The compromise of a relatively simple single storey dwelling on domestic land to the east would seem to be the best way to improve both the setting and amenity of the whole complex, providing that the new dwelling is not constructed or occupied until the former priests' house is removed.

3.5 It is considered that the development proposed would comply with Local Plan Policy DM25 not resulting in harm to the setting or significance of heritage assets.

4. Impact on the amenity of nearby residential properties

4.1 Paragraph 135 of the NPPF outlines that planning policies and decisions should ensure that developments:

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

- 4.2 This is reflected in policy DM1 of the Mid Devon Local Plan 2013 - 2033 which sets out that new development should respect the privacy and amenity of neighbouring residents. Policy DM1 states that development should be well integrated with surrounding buildings, streets and landscapes, and not have an unacceptably adverse effect on the privacy and amenity of neighbouring properties.
- 4.3 The proposed dwelling will be single storey and setback into the site, sited on lower ground than that of Nazareth House. There would also a good degree of separation to the nearest neighbouring residential property in comparison to the existing building of Nazareth House which contains numerous windows which overlook neighbouring land. Therefore it is not considered to result in a significant detrimental impact on the amenity of a neighbouring property in accordance with Policy DM1.
- 4.4 It is noted that the objector is of the view that it would be preferable to demolish Nazareth House and build a new dwelling on the footprint. It is considered that there would be difficulties with this approach given the proximity of neighbouring properties which are also located lower down. There would also be the potential for a new dwelling to have an overbearing impact and it should be noted that the removal of the building is viewed as a betterment.

5. Drainage/Flood Risk

- 5.1 The application site is shown as being located within flood zone 1, the lowest level for flood risk. The NPPF states that when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Policy S9 requires 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), arrangements for future maintenance, and connection of foul drainage to a mains sewer where available. It has been outlined that the surface water strategy would be for storm water to be stored on site and recharged to the ground via a soakaway.
- 5.2 Comments have been made by an objector to concerns over drainage. Plans were received as a result to show the drainage arrangement, with a note from the applicant's agent advising that the foul system can be diverted around the house if needs be. It has been outlined that the plot is going to be sold and as such it is possible that a future owner would wish to re-position and re-design the house so existing drains could remain where they are. The short answer being that it is possible to provide storm water and foul drainage solutions on site wherever the house is built, such that it would comply with Local Plan Policies DM1 and S9.
- 5.3 On this basis, notwithstanding concerns raised by objectors, a reason to refuse based on surface water and foul drainage would not be warranted and it is not considered that the proposed development is likely to result in any significant adverse impacts to neighbouring occupiers or the general amenity of the area.

6. Ecology/Biodiversity Net Gain

- 6.1 Policy S1 requires development to minimise impacts on biodiversity and provide a net gain in biodiversity. With respect to ecology and protected species, an Ecological Impact Assessment survey was carried out for the proposal of a new dwelling with further ecological surveys undertaken on Nazareth House in the form of emergence surveys whereby the ecologist has

confirmed 'No bats were observed emerging from the Nazareth building and 66 lesser horseshoe bats emerged from the adjoining building (building E the chapel building) confirming a maternity roost for this species. The next bat emergence survey is booked in for 18/09/2025. Providing there are no bat emergences from the Nazareth building (as in the previous surveys), and we can confirm the bats have left their maternity roost next door, we will then provide a short technical note confirming the results of the surveys. It would then be possible to demolish the Nazareth building between October 2025 and April 2026 before the bats return to the chapel in the next maternity season, negating the risk of killing, harming or disturbing bats and therefore, the need to obtain a bat licence to do the works. If bats continue to be present, then a licence will be required to be sought'.

- 6.2 Mitigation requirements have been outlined to provide biodiversity gain which are conditioned, with final details of the bat and bird boxes to be installed on the new dwelling and trees on site.
- 6.3 The County Ecologist viewed the ecological surveys for a new building on this site noting that with respect to Ecological Mitigation and Enhancements, *'Ecological measures have been outlined in the report, including precautionary protected species construction mitigation, the planting of 47m of species-rich hedge (also shown on the layout/Block Plan) and installation of wildlife boxes. I suggest a compliance condition to secure the mitigation, compensation and enhancement detailed in Table 3.1 of the Ecological Impact Assessment Report (HT Ecology, 2024).'*
- 6.4 Therefore the EIA does not anticipate any harm to protected species as a result of the proposal subject to protective actions and measures during the construction phase of the development, and the installation of enhancement measures such as bat and bird boxes. There is an opportunity to secure an acceptable scheme of external lighting which minimises the proposal's impact in terms of light pollution and effects on protected species.
- 6.5 On the point of biodiversity net gain, there is the requirement to provide biodiversity net gain of 10%. The County Ecologist commented that with the statutory metric provided, he was satisfied the habitat baseline information is acceptable, and this will be automatically secured on the date of approval under Schedule 7A paragraph 5 of the Town and Country Planning Act 1990 (as amended), should the application be consented.
- 6.6 When it comes to On-site measures, the county ecologist commented that with regard to Area Habitats 'The proposals input the curtilage of the property as developed-land sealed surface and vegetated garden, which is acceptable in BNG terms without a landscape condition'. With respect to Hedges and Lines of Trees 'The 47m of new on-site boundary hedgerow creates far more BNG than required to achieve the 10%, as minimal hedge is proposed to be lost (just 5m). My view is that this does not constitute significant on-site enhancement, since little of the planting counts towards the 10%, and so it does not need to be legally secured for 30-years. I suggest the hedge is secured with a detailed planting specification and 5-year failure/replace aftercare either through updating the block plan prior to approval, or as a separate condition'.
- 6.7 It would also outlined by the county ecologist 'that the applicant intends to use an off-site provider to procure the -0.5260 unit deficit in order to achieve the legal 10% BNG requirement. This is a post-permission matter, dealt with through the submission of proof with the pre-commencement Biodiversity Gain Plan condition, which must be provided for the condition to be discharged. Standard BNG informative required if consent is granted'.

6.8 Subject to the use of conditions to secure all of the above, it is considered that the proposal's impact on nature conservation interests would be acceptable, and that the proposal would be in accordance with the guidance contained in the NPPF.

7. Highway, access and parking

7.1 The proposal utilises the existing access and a new driveway with parking and turning area is to be provided to site in front of the dwelling. It is not considered that the provision of the driveway off the existing access would result in harm to the character or appearance of the area in accordance with policies S9 and DM1 of the Mid Devon Local Plan 2013–2033.

7.2 Policy DM3 of the Local Plan states that new development should be safe and accessible and Policy DM5 sets out the parking requirements. Given the limited traffic movements associated with the access which has been utilised in the past, the use of the existing access for a single dwelling is not considered to result in any significant highway safety concerns. There is sufficient space within the site for two parking spaces in accordance with policy DM5 (Parking) of the Mid Devon Local Plan 2013 - 2033. A condition is recommended to be imposed to secure the provision of the parking and manoeuvring area.

8. Other matters

8.1 Climate Change considerations - The Government has enshrined in law, a commitment to achieving net-zero carbon emissions by 2050. Achieving sustainable development is also a clear priority of national planning policy and the Council. The Mid Devon District Council Interim Planning Policy Statement: Climate Emergency was published in February 2023, which outlines that Mid Devon District Council signed the Devon Climate Emergency Pledge on 26th June 2019 and aims to become carbon neutral by 2030 (Net Zero greenhouse gas emissions). As such, tackling climate change is a material consideration to the planning process, to which significant weight should be attached and that setting the climate emergency as a top priority connects to closely-related issues such as low-carbon design, energy efficiency, infrastructure resilience, living landscapes and ecological recovery.

8.2 Policy S1 requires development to meet the challenge of climate change by supporting a low carbon future, energy efficiency and including the use and supply of renewable and low carbon energy. Policy DM2 (Renewable and low carbon energy) of the Mid Devon Local Plan 2013-2033 has similar aims. This policy states:

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

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

8.3 It has been outlined within the Climate Emergency - Planning Applications Checklist submitted with the application that the development has been configured for alternative energy through use of a ground source heat pump. It has also been set out in the planning submission that Part L of Building regulations is now in force which promotes a "fabric first" approach and will result in houses using around 75% less energy than the previous Building Regulations and a

move away from fossil fuels to renewable energy. It has been stated that the 'applicants have taken the approach that they will deliver a building compliant with Part L and undertake as many of the recommendations within the MDDC "Zero Carbon Checklist" as they reasonably can. This includes; - A net gain in biodiversity - Low water usage fittings - Storage of rain water for the garden and car washing. - A charge point for EV - Orientating the building for solar gain - Allowing for future adaptations - Travel packs detailing local public transport'.

8.4 Contamination – An objector has outlined that the site is contaminated with the applicants having deposited waste building materials from the works undertaken to convert the chapel. There is no recorded contaminated land in this area and Public Health have raised no concerns relating to the prospect of contamination. It should be noted that the Public Health Team have previously advised on applications where contamination has been raised as an issue, noting that in the future, should any area involved be considered to be contaminated then the owners of the site already have responsibilities under the Environmental Protection Act 1990 which is the more appropriate legislation to deal with this kind of situation.

8.5 S106 – The matter was discussed with the Council's Planning Solicitor whereby if we were minded to support the proposal for a replacement dwelling sited in the grounds lower down to the east, whereby Nazareth House needs to be demolished, a S106 agreement would be reasonable to ensure that Nazareth House is removed, its permission for conversion revoked without compensation if appropriate, and the site not built on in the future. This is considered to be key as the betterment arises from the removal of Nazareth House.

9. Planning balance

9.1 The key issue to be considered in respect to this proposal is that of the principle of the development taking into consideration the adopted planning policy and the weight afforded to the 'fall back' position through the planning permission to convert Nazareth House into a dwelling.

9.2 Betterment is provided through the design of the new dwelling and removal of the existing building with the main points being:

- The removal of a building of poor shape and form, being of poor construction (single skin blockwork, flat roof)
- The limited architectural merit of a conversion of the building and the difficulty of making the existing building comply with building regs.
- The fact that the proposed building will be more discretely located and have a more attractive design
- Improvement to the setting to the non designated heritage asset of the converted chapel
- The new dwelling having a low carbon footprint with improved energy efficiency through higher insulation and ground source heat pump.
- Improved relationship with neighbouring properties given that there are a number of windows in Nazareth House which overlook.
- Biodiversity net gain as the proposal incorporates ecological mitigation and enhancements across the site.

9.3 Weighing all matters in the balance, the proposal is considered to provide a betterment over the existing planning permission for a conversion of Nazareth House. To sum up, the proposal is considered acceptable, having regard to the Local Plan and all other material considerations, and therefore planning permission should be granted, subject to the conditions

detailed below and the signing of a S106 legal agreement to secure the demolition of Nazareth and the removal of all materials resulting from the demolition from the site.

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

The recommendation is to grant permission subject to the signing of a S106 agreement to secure the demolition of Nazareth House prior to occupation of the replacement dwelling and prevention of further development on this part of the site and subject to the following 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. Before the development hereby permitted is first brought into use, the vehicular parking and turning areas shall be provided and surfaced as shown on the proposed block plan, drawing no. 24009_P100 Rev A.
4. The recommendations and mitigation requirements as proposed in the Ecological Impact Assessment Report prepared by HT Ecology dated July 2024 shall be implemented and completed in accordance with the requirements of the report prior to occupation of the dwelling hereby approved. This includes the provision of species-rich hedgerow to the east of the site, bat and bird boxes on the building and trees on site. Once provided, these mitigation and enhancement measures shall be maintained and retained in perpetuity.
5. Prior to their first use on the buildings details and a sample of the proposed materials to be used on the properties of the proposed dwellinghouses shall be submitted to and approved in writing by the Local Planning Authority. The approved materials shall be so used and retained.
6. Notwithstanding the provisions of Article 3 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any Order revoking and re-enacting that Order with or without modification) no development of the types referred to in Classes A, AA, B, C, D or E of Part 1 of Schedule 2 relating to extensions, additions and alterations to the roof, porches and outbuildings and Class A of Part 2 relating to enclosures/fences/walls shall be undertaken without the Local Planning Authority first granting planning permission.
7. Prior to the first occupation of the dwelling hereby approved, details of any external lighting within the application site shall be submitted to and agreed in writing by the Local Planning Authority. Any external lighting installed shall be in accordance with the agreed details.
8. Within 9 months of the commencement of development, a landscaping scheme including a detached planting specification for the hedge along the eastern boundary and management plan shall be submitted to, and approved in writing by the Local Planning Authority. The

landscaping scheme shall include details of hard and soft landscaping proposed, including any changes proposed in existing ground levels and a sample of the paving proposed for the shared surface driveways and all the parking areas. All planting, seeding, turfing, earth reprofiling and hard landscaping comprised in the approved details of landscaping shall be carried out within 9 months of the substantial completion of the development, and any trees or plants which, within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species. The management plan will provide full details of how the scheme will be managed during a 5-year period with failure/replace aftercare. The development will thereafter be maintained and managed in accordance with the approved plan.

REASONS FOR CONDITIONS

1. In accordance with the provisions of Section 51 of the Planning and Compulsory Purchase Act 2004.
2. For the avoidance of doubt and in the interests of proper planning.
3. In the interest of highway safety and to ensure that adequate on-site facilities are available for traffic attracted to the site.
4. In the interests of nature conservation and in accordance with Policies DM1 and S9 of the Mid Devon Local Plan 2013-2033.
5. To ensure the development makes a positive contribution to the landscape character and visual amenity of the area in accordance with policies S1, DM1 and DM25.
6. To safeguard the visual amenities of the area and character and appearance of the building in accordance with Policy DM1 of the Mid Devon Local Plan 2013-2033.
7. Having regard to the countryside setting, ecology and to safeguard the visual amenities of the area in accordance with Policies S9 and DM1 of the Mid Devon Local Plan 2013-2033.
8. To ensure the development makes a positive contribution to the landscape character and visual amenity of the area in accordance with policies DM1, DM25, S9 and S14 of the Mid Devon Local Plan 2013-2033.

INFORMATIVES

1. The applicant is advised that a Biodiversity Gain Plan must be provided and approved by the Local Planning Authority prior to the commencement of the development. The contents of the Biodiversity Gain Plan required to discharge the statutory BNG condition are set out in the Defra template Biodiversity gain plan - GOV.UK (www.gov.uk). Please see the Devon Planning Guidance on BNG for more advice. It should include, in addition to information about steps taken or to be taken to minimise any adverse effect of the development on the habitat, information on arrangements for compensation for any impact the development has on the biodiversity of the irreplaceable habitat. The planning authority can only approve a Biodiversity Gain Plan if satisfied that the adverse effect of the development on the biodiversity of the irreplaceable habitat is minimised and appropriate arrangements have been made for the purpose of compensating for any impact which do not include the use of biodiversity credits.

2. The developer must ensure compliance with the requirements relating to protected species by virtue of the Wildlife and Countryside Act 1981 and the Habitats Regulations. Any operations that would disturb bird nesting habitat should be undertaken outside the breeding season (March to August inclusive).
3. The applicant must ensure that the public footpath No16, Crediton Hamlets, is kept open and available for the public to use during site preparation and construction. If a temporary closure is required during construction works, e.g. for safety reasons, the applicant would need to apply to the County Council for a Temporary Traffic Regulation Order. It should be noted a temporary closure cannot be seen as an alternative to adequate safety measures to mitigate risk to public users, and furthermore, the suitability of other routes would also be a consideration.

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

- The alignment, width, and condition of public rights of way providing for their safe and convenient use shall remain unaffected by the development unless otherwise agreed in writing by the Public Rights of Way Team.
- Nothing in this decision notice shall be taken as granting consent for alterations to public rights of way without the due legal process being followed.

REASON FOR APPROVAL OF PERMISSION

The works involved to create a new dwelling as an alternative to converting the existing building of Nazareth House into a dwelling which benefits from planning permission, is considered to be acceptable in this instance. The fall-back position is considered to be realistic with the proposed development representing betterment and is a material consideration in the planning balance. The proposed development results in the removal of a two storey flat roof extension to the converted chapel resulting in an improved outlook to the non designated heritage asset, and an improvement in the relationship with neighbouring properties through the removal of windows in close proximity, overlooking neighbouring properties. The new dwelling would be single storey set on land previously approved as domestic curtilage for Nazareth House and within walking distance to the building to be removed. The design of the dwelling offers improvements in terms of carbon production and provides a substantial biodiversity net gain to the approved development. It is not considered that the proposed development would result in significant harm to the character and appearance of the rural area or setting of heritage assets. The proposed development is not likely to result in any adverse highway impacts. On this basis it is considered that in this instance the proposed development results in a betterment to the approved development that could be achieved through the conversion of Nazareth House, as such the fall-back position can be given significant weight and on this basis the proposal is supported in accordance with policies S9, DM1, DM2, DM5 and DM25 of the Mid Devon Local Plan 2013-2033 and the National Planning Policy Framework.

BNG – Biodiversity Net Gain

Is BNG Required? Yes

Is BNG

Offsite only - No

Onsite only - No

Offsite and Onsite – Yes (Units will need to be purchased in addition to BNG on site)

Is a S106 agreement required? No

The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission granted for the development of land in England is deemed to have been granted subject to the condition “(the 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.

Based on the information available this permission is considered to be one which will require the approval of a biodiversity gain plan before development is begun because none of the statutory exemptions or transitional arrangements are considered to apply.

The permission which has been granted has the effect of requiring or permitting the development to proceed in phases. The modifications in respect of the biodiversity gain condition which are set out in Part 2 of the Biodiversity Gain (Town and Country Planning) (Modifications and Amendments) (England) Regulations 2024 apply.

In summary: Biodiversity gain plans are required to be submitted to, and approved by, the planning authority before development may be begun (the overall plan), and before each phase of development may be begun (phase plans).

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</i>							<i>Expected Decision Level</i>	
<i>No.</i>	<i>Weeks</i>	<i>TARGET DATE</i>	<i>REFVAL</i>	<i>PROPOSAL</i>	<i>LOCATION</i>	<i>NAME</i>	<i>Delegated</i>	<i>Committee</i>
1	3	16/10/2025	25/00996/MFUL	Variation of conditions 3, 5 and 6 of planning permission 20/00273/MFUL (Erection of 9 dwellings, conversion of barns to 5 dwellings, with associated works including access improvements and landscaping (Revised Scheme)) in relation to highways and drainage matters	Land and Buildings at NGR 300577 112977 High Street Halberton Devon	Mr Adrian Devereaux	DEL	

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LIST OF APPEAL DECISIONS FROM 16th July 2025 to 7th August 2025

Application No	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
24/00015/TPO	Application to reduce the crown of 1 Oak by up to 2m tree protected by Tree Preservation Order 97/00008/TPO	6 Blenheim Court Willand Cullompton Devon EX15 2TE	Refuse consent	Delegated Decision	Refuse permission	Written Representations	Appeal Dismissed

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