

Public Document Pack

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

MID DEVON DISTRICT COUNCIL

PLANNING COMMITTEE

A MEETING of the **PLANNING COMMITTEE** will be held in the Phoenix Chamber, Phoenix House on Wednesday, 6 July 2016 at 2.15 pm

The next ordinary meeting of the Committee will take place on Wednesday, 3 August 2016 at 2.15 pm in the Phoenix Chamber, Phoenix House, Tiverton

STEPHEN WALFORD

Chief Executive
28 June 2016

Councillors: Mrs H Bainbridge, Mrs F J Colthorpe, R J Dolley, P J Heal, D J Knowles, F W Letch, B A Moore, R F Radford, J D Squire, R L Stanley and Mrs C Collis

A G E N D A

MEMBERS ARE REMINDED OF THE NEED TO MAKE DECLARATIONS OF INTEREST PRIOR TO ANY DISCUSSION WHICH MAY TAKE PLACE

1 APOLOGIES AND SUBSTITUTE MEMBERS

To receive any apologies for absence and notices of appointment of substitute.

2 PUBLIC QUESTION TIME

To receive any questions relating to items on the Agenda from members of the public and replies thereto.

Note: A maximum of 30 minutes is allowed for this item.

3 MINUTES OF THE PREVIOUS MEETING *(Pages 5 - 22)*

To receive the minutes of the previous meeting (attached).

4 CHAIRMAN'S ANNOUNCEMENTS

To receive any announcements the Chairman may wish to make.

5 APPLICATION 15/01034/MFUL - ERECTION OF A 500KW ANAEROBIC DIGESTER AND ASSOCIATED WORKS WITH 4

SILAGE CLAMPS. REVISED SCHEME TO INCLUDE THE CHANGE OF ORIENTATION OF THE LAYOUT AND INSTALLATION OF 2 DRIERS AT LAND AT NGR 299621 112764 (RED LINHAY) CROWN HILL, HALBERTON *(Pages 23 - 184)*

To consider a report of the Head of Planning and Regeneration regarding this application which had been deferred from the previous meeting for further consideration of conditions.

6 **ENFORCEMENT LIST** *(Pages 185 - 212)*

To consider the items contained in the Enforcement List.

7 **DEFERRALS FROM THE PLANS LIST**

To report any items appearing in the Plans List which have been deferred.

8 **THE PLANS LIST** *(Pages 213 - 234)*

To consider the planning applications contained in the list.

9 **THE DELEGATED LIST** *(Pages 235 - 256)*

To be noted.

10 **MAJOR APPLICATIONS WITH NO DECISION** *(Pages 257 - 258)*

List attached for consideration of major applications and potential site visits.

11 **APPEAL DECISIONS** *(Pages 259 - 262)*

To receive for information a list of recent appeal decisions.

12 **APPLICATION 16/00180/FULL - ERECTION OF 2 DWELLINGS FOLLOWING DEMOLITION OF EXISTING DWELLING (REVISED SCHEME) AT 19 EXETER ROAD, SILVERTON** *(Pages 263 - 272)*

To receive a report of the Head of Planning and Regeneration regarding this application which had been deferred from the previous meeting to allow for a site visit by the Planning Working Group to take place.

13 **APPLICATION 05/02315/OUT - OUTLINE APPLICATION FOR THE ERECTION OF AN AGRICULTURAL WORKER'S DWELLING (RESUBMISSION) AT LAND AT NGR 316000 114353 (ADJ. SHALOM), CALLER'S LANE, CLAYHIDON** *(Pages 273 - 274)*

To receive a report of the Head of Planning and Regeneration regarding a change to the S106 agreement to substitute parcels of land.

14 **APPLICATION 14/00881/MOUT - OUTLINE APPLICATION FOR A MIXED USE DEVELOPMENT COMPRISING UP TO 700 DWELLINGS, 22,000 SQUARE METRES OF B1/B8 EMPLOYMENT LAND, CARE**

HOME, PRIMARY SCHOOL AND NEIGHBOURHOOD CENTRE WITH ASSOCIATED ACCESS INCLUDING A LEFT IN LEFT OUT JUNCTION ON THE WESTBOUND A361 AND ACCESS AND EGRESS ONTO BLUNDELLS ROAD AT LAND EAST OF TIVERTON, SOUTH OF A361, AND BOTH NORTH AND SOUTH OF BLUNDELLS ROAD, UPLOWMAN ROAD, TIVERTON *(Pages 275 - 284)*

To receive a report of the Head of Planning and Regeneration regarding a proposed change to the previous Committee resolution arising through discussions over the S106 Agreement.

- 15 **APPLICATION 13/01616/MOUT - OUTLINE FOR THE DEVELOPMENT OF UP TO 330 DWELLINGS TOGETHER WITH PUBLIC OPEN SPACE, ASSOCIATED INFRASTRUCTURE AND OTHER WORKS INCLUDING VEHICULAR ACCESS, PEDESTRIAN/CYCLE LINKS AND HIGHWAY IMPROVEMENTS AT LAND AT NGR 298671 113603, UPLOWMAN ROAD, TIVERTON** *(Pages 285 - 290)*

To receive a report of the Head of Planning and Regeneration in light of ongoing negotiations over this application post Committee, to consider several proposed amendments to the draft S106 and planning conditions as a result.

- 16 **PROCEDURES FOR DEALING WITH REQUESTS TO VARY OR DELETE PRE-EXISTING PLANNING OBLIGATIONS (S106 AGREEMENTS)** *(Pages 291 - 294)*

Report of the Head of Planning and Regeneration to amend the way in which proposals to vary or delete planning obligations are dealt with in light of recent requests and to respond to changes introduced by the Government.

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

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

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

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

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

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MID DEVON DISTRICT COUNCIL

MINUTES of a **MEETING** of the **PLANNING COMMITTEE** held on 8 June 2016 at 2.15 pm

Present

Councillors

Mrs F J Colthorpe (Chairman)
Mrs H Bainbridge, Mrs C Collis, R J Dolley,
P J Heal, D J Knowles, F W Letch,
B A Moore, R F Radford, J D Squire and
R L Stanley

Also Present

Councillor(s)

C J Eginton, Mrs B M Hull, Mrs J Roach and
Mrs E J Slade

Present

Officers:

Jenny Clifford (Head of Planning and
Regeneration), Tina Maryan (Area Planning
Officer), Christie McCombe (Area Planning
Officer), Lucy Hodgson (Area Planning
Officer), Daniel Rance (Principal Planning
Officer) and Sally Gabriel (Member Services
Manager)

22 APOLOGIES AND SUBSTITUTE MEMBERS

There were no apologies.

23 PUBLIC QUESTION TIME

Ann Vinton asked a question in relation item 10 on the agenda, Red Linhay, Crown Hill. She understood that approaches had been made to several local farmers about the possibilities of them taking digestate from the site as fertiliser. As the applicant had stated that digestate will only be used on Hartnoll Farm and the land at Manley Lane, can a condition be placed to the effect that all digestate must be used as stated and not exported to other sites? This has direct implications on traffic movements and as Greener For Life (GFL) seem unable to tell the truth about traffic movements as proven at other sites even the Planning Inspector found a significant problem with the data that was supplied to him. Please will you, as they have done in Cornwall, ask for the installation of monitoring equipment at the entrance to the site to enable the LPA to check the accuracy of their figures? Finally, do you have any control over the traffic movements once permission is granted as presumably you would be able to refuse on grounds of excessive traffic but can you take enforcement action if we suddenly find that the number of movements is greater than was expected?

Mr Tony White also asked a question regarding item 10, Red Linhay, Crown Hill. He stated that he was a Crown Hill resident near the site in question. The applicant had

stated that all structures including the dome will be at a lower height than the existing and adjacent agricultural building. However, the technical report states that the constructed dome is equivalent or higher than the adjacent agricultural building. The current digester is stated as being 1.9m higher than the consented structure. Therefore would it not be reasonable to ask that the dome be lowered accordingly? As well as the increased digester capacity, 2 x 500kw CHP units have been seen on the site. Given GFL's previous actions, is it not likely that a 1 megawatt plant is in fact being built and another retrospective application will soon be submitted, along with further threats of an expensive appeal process? Can I suggest that if this application is approved, vigorous and enforceable conditions are put in place to prevent this inevitable expansion?

Dr Bratby also spoke in relation to item 10. He stated that he had four questions to address to the Committee. His first question concerned the three GFL plants at Red Linhay, at Menchine Farm and Edgeworthy Farm in Nomansland. The Chairman asked Dr Bratby to only refer to the Red Linhay application. He continued by stating that he was sure Members were aware that GFL had no regard for planning conditions and the plant had not been built to the approved plans as specified in the planning condition. It would be too much to assume that this systematic behaviour is due to incompetence so it must be due to deliberate policy of GFL to ignore the conditions and carry out unlawful developments. The longer that GFL is allowed to continue its unlawful activities the worse the situation will get. GFL will assume it has carte blanche to carry on with its unlawful activities. The sooner a stop is put to this the more likely it is that the financial backing for GFL will cease and the whole sorry mess will end. My question therefore is, when is the Council actually going to do something positive and stop all these unlawful activities of GFL?

His second question concerned the claimed output of the Red Linhay plant. Are the committee aware that the plant is more than twice as big as necessary for the 500kw output and that the investment company behind the plant is claiming that the output is 1000kw (1 megawatt)? Are the committee prepared for a new application to double the plant output with the corresponding doubling of the traffic movements?

His third question concerned Government policy on anaerobic digesters. They are supposed to be used to enable farmers to extract energy from animal waste and the Government has finally twigged on to the fact that the system is being abused and that farmers are taking advantage of the huge subsidies on offer to turn crops rather than animal waste into energy. The latest Government position on anaerobic digesters is given in a report entitled 'Review of support to anaerobic digestion and micro combined heat and power with the feed in tariff scheme' dated 26 May 2016. In that report the Government stated 'It is also Government policy that the primary purpose of agricultural land should be for growing food. We propose introducing sustainability criteria for AD and the feed in tariffs for new installations to implement sustainability criteria and restrict payments based on feed stock type for new AD installations being deployed under the fit scheme. It is not our intention to support an AD industry which has a high dependency on crops so we need to consider ways to ensure that AD installations operating on farms are based on the processes of waste and residues. We propose to introduce feed stock restrictions under the fit scheme to minimise the use of crops.' Are the committee aware of the Government policy on AD's given in this new report?

Asking his final question Dr Bratby stated that in 2014 Planning Minister Brandon Lewis MP said that 'We will not sit back and allow people who bypass the law to then benefit from the protection it can offer. We have already strengthened the powers that councils have to enforce planning rules and take action against breaches which fuel community tensions. This will tackle the abuse of the system.' The plain English guide to the Localism Act of 2011 under the heading 'Strengthening Enforcement Rules' said 'For people to have a real sense that planning system is working for them they need to know that the rules they draw up will be respected. The Localism Act will strengthen planning authorities powers to tackle abuses of the planning system.'

Last year DCLG chief planner, Steve Quartermaine, announced new planning policy to clamp down on unauthorised development and wrote to all chief planning officers stating that 'The new policy will make intentional unauthorised development a material consideration that will be weighed up in the determination of planning applications and appeals. This is designed to make it harder to get retrospective planning permission. The policy will apply to all new applications and appeals received from 31st August 2015. The Government is concerned about the harm caused by development undertaken in advance of planning permission and the expensive and time consuming enforcement action that local authorities are forced to take.'

Seeking permission for AD's and then building plant that is larger and different from that for which permission has been granted is a tactic GFL has adopted in numerous locations in the Westcountry indicating a persistent and deliberate intention to deceive local authorities and above all local residents who have to suffer the consequences. This is evidenced by applications for retrospective permissions applications in Mid Devon, North Devon, East Devon, Cornwall and South Somerset. In the light of this and the Governments attempts to clamp down on unauthorised development it is very surprising that neither the consultants nor the officers report have mentioned that it is contrary to public policy, case law and planning guidance to allow flagrant and intentional breaches of planning permissions and that intentional unauthorised development is a material consideration in the determination of planning applications and appeals. Are the committee aware of all this information?

Peter Davies referring to the 19 Exeter Road, Silverton, the application stated that at present 19 Exeter Road was a bungalow with a well-proportioned front and back garden which was well integrated within a row of other bungalows. It is faced by a hedge bank that is sympathetic to the country lane. Mr Luke Smith a planning officer from this authority wrote after a site visit to the client's planner and he wrote this 'I'm concerned about the principle of development of two units. Increased density places pressure on locating buildings closer to boundaries. It is my suggestion that your client considers a single unit with amenity space to the front and rear.' What did he get wrong?

Mrs Pauline Davies then asked a question in relation to the same application. She stated that the proposed plans required the demolition of most of the old Devon bank bordering the lane to facilitate two driveway entrances leading to a large area of hardstanding in front of the buildings. Do you really consider this respects or enhances the street scene as viewed from the adjacent conservation area? I must mention that we have been disappointed that the height of the proposed dwellings in relation to the existing one has only become available this morning. Surely this should have been on the original plans. Your planning officers should have queried

this at an earlier stage. Why did your planning officer give recommendation before this was available?

Terry Payne referring to item 10 on the agenda, Red Linhay, Crown Hill, stated that as additional facilities may already be being installed on the site to potentially double its capacity, have planning officers visited the site and do they consider that they have enough technical expertise or backup to fully understand what is being built there now? Will they please confirm what is being built. Is it for a 500kw or a 1000kw output plant? The technical report under consideration today states that the site is more clearly visible from many more viewpoints than was previously ever envisaged when consent was given originally. Had this been obvious at the time the application might well have been refused. The question was asked at April's meeting regarding the amount of time it would take for any planting scheme to successfully shield the site, the answer was given as several years. The planting scheme supplied by the applicant states that 40 – 90cm in height will be used. Do the Members consider that this is acceptable? Could a condition be put on any permission granted that the size of trees and shrubs planted should be of a much larger size? Finally, the Department for Energy and Climate Change, as we've heard, no longer supports the growing of crops as fuel for AD's because they say it is not carbon cost effective as per their latest report in May 2016. They are proposing to reduce, as we know, and delimitate support for new installations relying on crops as their primary feed stock. Therefore what assurances can you give us that in future this AD will not be converted to a waste disposal facility as this would of course have a significant impact, again, on traffic movements?

Mr John Massey, referring to the Castle Primary School, Tiverton application stated that he would like the committee a number of factors: The accommodation of the building used to be for 600 pupils and 39 staff as a grammar school, it now contained 333 pupils and 26 staff and all those pupils are aged 5 – 10 as opposed to 11 – 16, that is, the school is half as crowded now as it was when it was a grammar school. The physical condition of the building which allegedly gave rise to the reason for the building to be demolished includes a leaking roof, high ceilings, asbestos in the roof, excessive heat gain and loss due to large windows plus rooms larger than current standards, distance to the toilets for small children, a split level top corridor and old fashioned radiators. I would suggest that all these factors are easily solvable by conventional architectural expertise and I point out that a recent Ofsted inspection upgraded the rating of this school despite it having all the above factors.

In planning terms the school was built in 1912, it's not listed but it is characteristic of the period. A new building would be required to have a 60 year design life, the existing building exceeds this by over one and a half times. There are no public buildings of this type at all in Tiverton. The school forms a unity with the wilderness and the Academy building on the same site. Most important of all the building is in a conservation area. In financial terms the demolition/rebuild is probably the most expensive option. Demolition but retention of the façade, that is, what can be seen from the street, has been considered but this financial information remains commercially confidential and would remain so even if the details were sought under the Freedom of Information Act. I would like the committee conclude that the case for demolition and rebuild has not been made by the EFA, therefore this course should not be pursued.

The Chairman indicated that the answers to the questions raised would be provided at the agenda item.

24 MINUTES OF THE PREVIOUS MEETING (00-22-01)

The minutes of the meeting held on 11 May 2016 were approved as a correct record and signed by the Chairman.

25 CHAIRMAN'S ANNOUNCEMENTS (00-22-48)

The Chairman had the following announcements to make:

- She welcomed Cllrs Mrs C A Collis and R J Dolley back to the Committee
- She reminded Members that a tour of the area to look at built out applications would take place on 14 July and asked that Members advise officers of any specific sites they would want to view.

26 DEFERRALS FROM THE PLANS LIST

There were no deferrals from the Plans List.

27 THE PLANS LIST (00-24-49)

The Committee considered the applications in the plans list *.

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

(a) Applications dealt with without debate.

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

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

(i) No 2 on the Plans List **(16/00396/FULL – Erection of a new day centre following demolition of public toilets at public conveniences, Wyndham Road , Silverton)** be approved subject to conditions as recommended by the Head of Planning and Regeneration

(Proposed by the Chairman)

Note:

(i) Cllr R L Stanley declared a personal interest as Cabinet Member for Housing as he had been involved in the negotiation of the sale of the site;

(ii) Cllr Mrs J Roach declared a personal interest as she was the applicant.

(ii) No 3 on the Plans List **(16/00500/FULL – Advertisement Consent to display 1 freestanding Heritage Information panel at The Walronds, 6 Fore Street,**

Cullompton) be granted advertisement consent subject to conditions as recommended by the Head of Planning and Regeneration

(Proposed by the Chairman)

(b) No 1 on the Plans *List (16/00180/FULL – Erection of 2 dwellings following demolition of existing dwelling (Revised Scheme) 19 Exeter Road, Silverton*

The Area Planning Officer outlined the contents of the report by way of presentation highlighting the history of the site, the application site, the revisions made by the applicant since pre – app discussions, the site location plan, photographs from various aspects of Exeter Road; proposed site and roof plans and proposed elevations.

With regard to the questions posed in Public Question Time, the officer presentation had addressed the issues raised that of height, the hedge bank, the planning history and previous advice.

Consideration was given:

- The height of the proposed dwellings
- The removal of the hedge and the bank
- Previous advice given at pre-app stage
- Parking issues and planning policies
- Possible overdevelopment of the site and unsympathetic design
- The closeness of the Conservation Area to the site and that there was no mention of the Conservation Officers view in the report
- The impact of the development on the streetscene

RESOLVED that the application be deferred to allow for a site visit by the Planning Working Group to take place to consider:

- The effect of the development on the street scene and character of the area and whether it was overdevelopment
- Access and parking arrangements
- The impact on existing properties

(Proposed by Cllr Mrs H Bainbridge and seconded by Cllr D J Knowles)

Notes:

- (i) Cllrs Mrs H Bainbridge, Mrs C Collis, Mrs F J Colthorpe, R J Dolley, P J Heal, D J Knowles, F W Letch, B A Moore, J D Squire and R L Stanley made declarations in accordance with the Protocol of Good Practice for Councillors in dealing with Planning matters as they had all received additional information from the objectors;
- (ii) Mrs Woodman spoke on behalf of the agent;
- (iii) Mr Higman (Objector) spoke;
- (iv) Cllr Mrs J Roach spoke as Ward Member;

- (v) The following late information was reported: 31st May 2016 – Further representation received and details as follows:

I apologise for this late submission but I have only just become aware of the 2015 Silverton Conservation Area boundary changes that bring Orchard Jefferies into the protected Conservation Area.

In this adopted Silverton Conservation Plan, the properties of Orchard Jefferies and Cockhaynes are both immediately adjacent to 19 Exeter Road. The boundary of the Conservation Area is shown along the north boundary wall of no.19 adjoining Orchard Jefferies and along the roadside hedge of no.19.

This east side of Exeter Road, which is a quite country lane, has 7 detached properties with sensible size gardens, this includes Orchard Jefferies. As mentioned previously the unsympathetic modern proposed development, around midway of the 7 properties, are squashed into the site and with the removal of the hedge bank at the entrance there would be a great adverse impact on the existing tranquil street scene, there being no attempt to integrate with existing properties, road or landscape.

I request the above comments, protecting the local views from the Conservation Area, are considered when a report is prepared for the 8th June 2016 Planning Committee meeting.

2 June 2016 – Further representation received and details as follows:

I wish to object to the construction of 2 dwellings houses if they are not going to be bungalows.

The reasons for my objection is recent comment in the national Press pointing out that

a) Elderly people are less likely to have to go into a care home , if they are living in a bungalow.

b) Bungalows often provide an attractive alternative for elderly folk rather than living in a multi storey house.

A beneficial side effect of this is that if an elderly person moves from his or her current family

accommodation into a

Bungalow, then this frees up their larger house for a family to rent or buy.

I confirm I am currently a Silverton resident.

- c) No 4 on the Plans List **(16/00525/FULL – Conversion of former stables to form 1 dwelling – Newland Farm, Cullompton**

The Area Planning Officer outlined the contents of the report by way of presentation highlighting the proposed site plan, existing and proposed floor plans and elevations, the access and parking, photographs from various aspects of the site and the dwellings already in place. She explained her reason for proposing refusal quoting from policy DM11.

Consideration was given to:

- The suitability of the proposal
- The relationship between the proposal and existing buildings
- The design of the building, its suitability for conversion and proposed scheme.

RESOLVED that: planning permission be refused as recommended by the Head of Planning and Regeneration.

(Proposed by Cllr R L Stanley and seconded by Cllr Mrs H Bainbridge)

Note: Mr Preston (Agent) spoke.

28 **THE DELEGATED LIST (1-20-52)**

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

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

29 **MAJOR APPLICATIONS WITH NO DECISION (1-22-40)**

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

Application 16/00693/MOUT – erection of 13 dwellings at Hunters Hill, Culmstock was a departure from policy and therefore required determination by the Committee, it was deemed that a site visit was unnecessary.

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

30 **APPEAL DECISIONS (1-24-41)**

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

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

31 **APPLICATION 15/01034/MFUL - ERECTION OF A 500KW ANAEROBIC DIGESTER AND ASSOCIATED WORKS WITH 4 SILAGE CLAMPS - REVISED SCHEME TO INCLUDE THE CHANGE OF ORIENTATION OF THE LAYOUT AND INSTALLATION OF 2 DRIERS AT LAND AT NGR 299621 112764 (RED LINHAY), CROWN HILL (1-25-06)**

The Committee had before it an * implications report of the Head of Planning and Regeneration following discussions at the previous meeting where Members were minded to refuse the application and had sought additional expert planning advice.

She outlined the contents of the report stating that the expert advice requested by the Committee had been commissioned and the consultant's full report was before Members which identified the 4 proposed reasons for refusal and the consultant's findings. The issue of visual impact in relation to the bund and the dome where found to cause harm and could form a reason for refusal. However they could be addressed through conditions and an updated set of conditions (on the update sheet)

highlighted such a condition. She explained that further issues were identified by the consultant in respect of the passing bay and site entrance visibility. Comments by the Highway Authority were outlined within the report and the updated conditions. Members viewed composite images showing the relationship between the original scheme and the current proposal.

In response to questions posed in public question time, with regard to the movement of digestate this would take place by a umbilical system however such movement could be conditioned by amending the wording of condition 10 – this addressed traffic movements and routing. It was questionable whether the installation of monitoring equipment was a reasonable request.

With regard to the colour of the dome, this had been addressed in condition 3, the current plans identified that the height of the dome had been reduced, the power generation was identified as being 500 kw if more than one CHP unit was on site and the power generation larger, this would require further planning permission. The set of conditions outlined within the report and the update sheet was very comprehensive and these would be enforced.

Dr Bratby had highlighted enforceability issues, output and the need to regularise the application. She stated that what was on site at present was not authorised and that the applicant knew that this was in place at their own risk. With regard to Government Policy approach to feedstuff for AD plants, this related to feed in tariff arrangements and had not affected planning policy With regard to retrospective applications and the Localism Act, that its retrospective nature would count against the application, the report outlined all the required material considerations. With regard to the approach of GFL and the retrospective application, the Committee had the views of the Council's consultant before it. Alternative waste types for feedstock such as household waste would require a new planning application.

Consideration was given to:

- The current transport statement
- The content of the consultant's report
- The requirement for additional monitoring to take place
- The possibility of the establishment of a liaison group to monitor activities on the site
- The updated conditions and the need for a clear full set of conditions to be made available to the Committee
- The need to monitor output

RESOLVED that the application be deferred in order that a full set of conditions be produced to include monitoring arrangements as follows:

- Records of power output to be provided quarterly
- Vehicle movement and weight recording to be provided quarterly
- The installation of vehicle monitoring equipment
- Control of digestate destination
- The applicant be required to contribute to a permission/condition monitoring liaison group (based on DCC Minerals Liaison Group)
- Access to a metering system.

(Proposed by Cllr R F Radford and seconded by Cllr R L Stanley)

(Vote: 6 for: 5 against)

Notes:-

- (i) Cllr D J Knowles declared a personal interest as some of the objectors and the applicant was known to him;
- (ii) Cllrs R J Dolley, B A Moore, R F Radford and R L Stanley made declarations in accordance with the protocol of Good Practice for Councillors in dealing with Planning Matters as they had received correspondence regarding the application;
- (iii) The following late information was reported: Email from Agent confirming that we can change colour and reflectiveness of dome and happy for you to condition this along with remodelled bund.

The applicants agent has been contacted and confirmed that they are able to make the necessary changes to the colour of the dome and the re-profiling of the bund, subject to a condition as set out below.

There have been some changes to the list of previous recommended conditions following the report received by Peter Brett which were included in the report to Committee, the below list is the proposed conditions if minded to approve.

List of Conditions

1. The date of commencement of this development shall be taken as the 17th July 2015 when the application was registered by the Local Planning Authority.
2. The development hereby permitted shall be carried out in accordance with the approved plans, approved reports and statements listed in the schedule on the decision notice.
3. Details of the colour and finish of the building materials to be used (including the digester dome) are to be submitted within 1 month of the date of this approval and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with these details.
4. Within 1 month of the date of this approval a Construction and Operational Environment and Traffic Management Plan shall have been submitted to and approved in writing by the Local Planning Authority. The plan shall include details of:

Hours of working;

Hours of deliveries; including details of any importation of digestate associated with commencement of operations.

Dust suppression management measures;

Traffic management

Vehicle routing to and from the site;

Programme of works

Parking for vehicles of site personnel, operatives and visitors;

Storage of plant and materials;

Loading, unloading and movement of plant and materials within the site

Facilities for cleaning wheels on exiting vehicles

All works shall take place in accordance with the approved details which will have been confirmed in writing by the Local Planning Authority

5. The passing bay on Crown Hill shall be completed in accordance with the details shown on plan '00030-GFL-Hartnoll-Passing bay' approved under planning permission 13/0160/MFUL within 3 months of the date the AD plant becomes operational and be so retained. Written confirmation of the date the AD plant first becomes operational shall be submitted to the Local Planning Authority within 1 week of this date.

6. Within three months of the date of this planning permission, a programme of archaeological work indicating details of the parts of the site it shall relate to will be implemented in accordance with a written scheme of investigation submitted by the applicant or their agent and approved by the Local Planning Authority.

7. The anaerobic digester facility hereby permitted shall not be brought into operation until a drainage scheme has been implemented in accordance with details that shall have been previously submitted to and approved in writing by the Local Planning Authority. Such scheme shall include details of the provision for the disposal of clean surface water by a Sustainable Urban Drainage System, and separate provision for disposal of foul waste and dirty surface/yard water. The scheme shall include specifications and a timetable for implementation. The water management system shall be completed in accordance with the approved details and retained and maintained for that purpose at all times.

8. There shall be no storage of chicken and farmyard manures or slurry within the application site except within the sealed digestate storage tank(s) approved as part of this planning application.

9. All hedgerows within or on the boundary of the site located to the north west of the site, and east adjacent to the highway shall be retained and maintained to a minimum height of 2 metres.

10. The feedstock for the anaerobic digester shall be slurry, farmyard and chicken manure, grass and arable crops only from the sites named in the application (Hartnoll Farm 62.13ha, Manley Lane 37.60ha, plots 41.48ha, Maunders 7.71ha, and Wellington 23.55ha and shown on plan/aerial photos Drawing numbers 13425/T04 Revision A and 13425/T05 Revision A set out in the approved transport statement date stamped 21st August 2015). A log book shall be maintained and completed detailing where and when the feedstock(s) for the AD plant have come from (Name of Farm/plot/supplier along with date and time of delivery) No other sites are to be utilised unless written confirmation has been received from the Local Planning Authority. Such log book shall be made available at all reasonable times to the Local Planning Authority

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

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

12. The storage of digestate or other hazardous substances must be within properly constructed bunded areas of sufficient capacity, details of which are to be provided in writing prior to the first storage of any digestate outside the digestate storage tank. Such approved scheme shall be so retained.

13. The Tree Planting scheme submitted and approved plan WIN01_Redlinhay2_PP_004 shall be undertaken and completed within one month of the completion of the archaeological works subject to condition 6 above or within the next planting season following completion of the archaeological works, October-March whichever is the sooner. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

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

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

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

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

*(From the noise data supplied)

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

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

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

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

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

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

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

17. Heavy and light Goods vehicles along with plant under the control of the operators which deliver waste, remove digestate or biofertiliser or operate at the site shall only use non-intrusive broadband (white noise) vehicle noise alarms and/or reversing cameras. On such vehicles, there shall be no use of single or multi-pitch reversing beepers.

18. Written notification confirming the cessation of operations is to be given to the Local Planning Authority 3 month prior to the cessation of the use of the Anaerobic Digester plant hereby approved.

19. On the cessation of the use of the Anaerobic Digester plant hereby approved, the site shall be cleared of all buildings and structures, hardstandings bunds and any wastes within a period of six months from the date of cessation. After removal of the above, the surface of the site shall be regraded and be covered with topsoil to a depth of 500mm within a period of three months. The site shall then be planted in accordance with details to be agreed in writing by the LPA

20 Notwithstanding the submitted details, within 1 month from the date of the grant of planning permission, details of an earth bund to enclose the western and southern sides of the site together with a landscaping scheme shall be submitted to and agreed in writing by the Local Planning Authority. The bund shall be provided in accordance with the agreed details prior to the development becoming first operational and the landscaping scheme shall be completed in accordance with the agreed details within the first planting season following the development becoming first operational. Once provided the bund and

landscaping scheme shall be so retained. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

21 The visibility splay at the site entrance shall be provided and laid out in accordance with plan 13425/T03 within 1 month of the date of this permission with no obstructions within the visibility area over 1m above the adjacent carriageway level. It shall thereafter be so maintained for that purpose.

REASONS FOR CONDITIONS

1. In order to establish a legal commencement date for the development to enable the development to be monitored by the Local Planning Authority.
2. For the avoidance of doubt and in the interests of proper planning.
3. No development shall begin until details of the colour and finish of the building materials to be used (including the digester dome) has been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with these details.
4. To safeguard the amenities of the area and occupiers of nearby buildings in accordance with DM2.
5. In the interest of highway safety and to ensure that adequate passing facilities are available for vehicles attracted to the site in accordance with DM2 and DM22 of the Local Plan Part 3 (Development Management Policies).
6. To ensure, in accordance with paragraph 141 of the National Planning Policy Framework (2012) and the supporting text in paragraph 5.3 of the Mid Devon Local Plan Part 3: Development Management Policy DM27 (2013), that an appropriate record is made of archaeological evidence that may be affected by the development
7. To ensure adequate facilities are provided for the disposal of surface water from the development in accordance with policies DM2, DM22 and DM27 of the local Plan Part 3 (Development Management Policies).
8. To reduce odour levels within the site and to prevent pollution of the water environment in accordance with policy DM7 of Local Plan Part 3 (Development Management Policies)
9. In the interest of the visual amenity of the area and to protect the setting of the Grand Western Canal in accordance with policies DM2, DM22 and DM27 of the Local Plan Part 3 (Development Management Policies).
10. The application has been considered as a site accepting these feedstock types only and not as a general waste facility and consideration of the impacts on the environment, neighbouring residents and the road network has been

made on this basis and in order to accord with policies DM5 and DM22 of the Local Plan Part 3 (Development Management Policies).

11. To protect the rural character of the area in accordance with policies COR2 of the Mid Devon Core Strategy (LP1) and DM5, DM22 and DM27 of the Local Plan Part 3 (Development Management Policies).

12. To prevent pollution of the water environment in accordance with policy DM7 of Local Plan Part 3 (Development Management Policies).

13 To ensure the archaeological works are completed prior to the planting of the screening to minimise disturbance to the planting scheme and to provide further screening for the site and assist with reducing any potential noise.

14 To minimise the potential for pollution and disturbance to local amenity, in accordance with policy DM7 of the Local Plan Part 3

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18 To ensure the Local Authority are made aware of the impending cessation of the use to enable proper consideration of the removal of the items on the site.

19 To achieve a satisfactory landscape/restoration

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

21 To provide adequate visibility from and of emerging vehicles

(iv) *Implications report previously circulated, copy attached to minutes.

32 APPLICATION 16/00352/MFUL - CONSTRUCTION OF A NEW TWO STOREY SCHOOL ON EXISTING SCHOOL GROUNDS, WITH ASSOCIATED LANDSCAPING WORKS AND DEMOLITION OF EXISTING SCHOOL BUILDINGS AT CASTLE PRIMARY SCHOOL, BARRINGTON STREET, TIVERTON (2-34-00)

The Committee had before it a report * of the Head of Planning and Regeneration regarding the above application. The Area Planning Officer outlined the contents of the report highlighting the application by way of presentation which included the demolition of Blagdon House. Members viewed the block plan, the proposed new building and play areas, the mature trees on the site most of which would be retained but with some loss' the site plan, highlighting the existing and proposed buildings, the proposed elevations, the external materials, a model of the proposals and a 3D view, the proposed ground floor and first floor plans and proposed sections; the drainage

plans, landscaping proposals and photographs from various aspects of the site. The architectural merits of the original buildings were also identified.

In response to the questions posed in public question time, the old Grammar School had accommodated more children but that they were older children the school and the facilities available were not suitable for 4-11 year olds. The new school would increase the capacity by 60 children. Members had visited the site and understood the issues with regard to water ingress, the need to regulate the heating and the inappropriate environment that the children were being taught in; there was a need to assess the loss of the Edwardian building against the establishment of a new school.

Consideration was given to:

- The safety issue with regard to Blagdon House
- The condition of the school and the need for a replacement school to be built
- The suitability of the school for the children
- The available funding to provide a new school
- Concerns from objectors with regard to the loss of a heritage asset
- The concerns raised by the Conservation Officer
- The covenant on the land
- The building materials and the possible negotiation that could take place with regard to the stone finish
- The need for a suitable school to be available for the children and the need to take the opportunity of funding available
- The views of the Civic Society

RESOLVED that planning permission be granted subject to conditions as recommended by the Head of Planning and Regeneration with delegated authority being given to the Head of Planning and Regeneration to negotiate amendments to the external materials and colour.

(Proposed by Cllr Mrs H Bainbridge and seconded by Cllr D J Knowles)

Notes:

- i) Cllr Mrs F J Colthorpe declared a personal interest in the matter as she had in the past chaired the Tiverton Education Foundation which owned the land the school was built on and chose to leave the meeting whilst discussion took place; (Cllr P J Heal, Vice Chairman took the chair);
- ii) Cllr R F Radford declared a personal interest as a County Councillor;
- iii) Cllr D J Knowles declared a personal interest as a Member of the Civic Society and that some of the objectors were known to him;
- iv) Mrs Noble (Headteacher) spoke in support of the application;
- v) Cllr C J Eginton spoke as a member of the public in objection to the application;
- vi) Cllrs Mrs B M Hull and Mrs E J Slade spoke as Ward Members in support of the application;

- vii) The following late information was reported: Since the publication of the officer report, two letters of representation have been received from the Tiverton Civic Society and The Victorian Society. These are summarised below:

The Victorian Society

The Victorian Society strongly object to the proposal and fully endorse the views of both Historic England and Teignbridge District Council

The Tiverton Civic Society

The Tiverton Civic Society support the proposal, as the reuse of the building would be costly and unfeasible and a new functional and economically viable building would significantly benefit the local area.

These updates are not considered to impact upon the officer recommendation.

- viii) *Report previously circulated, copy attached to minutes.

33 TREE PRESERVATION ORDER 16/00001/TPO - MIXED SPECIES OF WOODLAND INCLUDING OAK, HAZEL, ASH, PINE AND MAPLE AT RED DEER HOUSE, OAKFORD (3-19-55)

The Committee had before it a report * of the Head of Planning and Regeneration regarding the above application which had been deferred from the previous meeting due to the lack of photographic evidence.

The Area Planning Officer outlined the contents of the report identifying the location of the group of trees via a set of photographs.

Members felt that the group of trees were both prominent and of value and therefore:

RESOLVED that the Tree Preservation Order be confirmed.

(Proposed by Cllr P J Heal and seconded by Cllr Mrs H Bainbridge)

Note: *Report previously circulated, copy attached to minutes.

34 REVIEW OF PLANNING COMMITTEE PROCEDURES - RECOMMENDATIONS FROM THE SCRUTINY COMMITTEE (3-26-23)

Arising from a report of the Head of Planning and Regeneration (previously considered by the Planning Committee on 20 April 2016), the Scrutiny Committee at its meeting on 23 May 2016 had requested that further consideration be given to:

- a) The length of time that a Ward Member is allowed to speak to an application;
- b) That photographs be posted on the website, (Public Access), in advance of the meeting; and
- c) The process for examining business cases for applications be reviewed to give reassurance of the validity of the information with the possibility of sending for external examination.

The Head of Planning and Regeneration explained the background behind the recommendations of the Scrutiny Committee. Consideration was given to:

- Whether unlimited time for Ward Members to speak was beneficial
- If the powerpoint presentation was available on the website there could be data protection issues with regard to publishing pictures of the internal layout of local residences and possible technical issues with regard to uploading such a presentation in the appropriate place on the website and that the majority of the information was already available in Public Access.
- The possibility of producing guidance and a possible proforma to help validate information with regard to business cases.

It was therefore:

RESOLVED that:

- a) Ward Members be given 5 minutes to speak on issues within their Ward.
- b) Photographs and the powerpoint presentation NOT be made available on the website but continue to be made available at Planning Committee meetings.
- c) The possibility of producing clear guidance and a possible proforma to aid the validation of business cases be investigated.

(Proposed by the Chairman).

(The meeting ended at 6.15 pm)

CHAIRMAN

AGENDA ITEM

PLANNING COMMITTEE
6th July 2016

REPORT OF JENNY CLIFFORD, THE HEAD OF PLANNING AND REGENERATION

15/01034/MFUL - ERECTION OF A 500KW ANAEROBIC DIGESTER AND ASSOCIATED WORKS WITH 2 SILAGE CLAMPS. REVISED SCHEME TO INCLUDE THE CHANGE OF ORIENTATION OF THE LAYOUT AND INSTALLATION OF 2 DRIERS - LAND AT NGR 299621 112764 (RED LINHAY) CROWN HILL HALBERTON

REASON FOR REPORT:

To determine the planning application.

Relationship to Corporate Plan:

The emerging corporate Plan sets out four priorities including the economy, community and the environment, upon which this application has a bearing.

Financial Implications:

The Council must be in a position to defend and substantiate each of its reason for refusal.

Legal Implications:

Planning decisions must be made in accordance with the development plan unless material considerations indicate otherwise. The starting point for decision making is therefore the policies within the development plan.

Risk Assessment:

If Committee decide to refuse the application for reasons that cannot be sustained at appeal there is a risk of a successful appeal costs claim against the Council for reasons of unreasonable behaviour.

UPDATE TO PREVIOUS OFFICER REPORTS.

1. BACKGROUND.

- 1.1 At the meeting of Planning Committee on 8th June 2016, Members resolved as follows:

RESOLVED that the application be deferred in order that a full set of conditions be produced to include monitoring arrangements as follows:

- Records of Power output to be provided quarterly
- Vehicle movement and weight recording to be provided quarterly
- The installation of vehicle monitoring equipment

- Control of digestate destination
- The applicant required to contribute to a permission/condition monitoring liaison group (based on DCC minerals Liaison Group)
- Access to a metering system

2. APPROACH TO PLANNING CONDITIONS.

21 conditions are recommended to Planning Committee by officers. At the meeting it was discussed whether additional conditions could be added in order to monitor operations.

Planning conditions must meet six tests as set out in the National Planning Policy Framework. They must be:

1. Necessary
2. Relevant to planning
3. Relevant to the development to be permitted
4. Enforceable
5. Precise
6. Reasonable in all other respects

Any proposed condition that fails to meet any of the six tests should not be used. This applies even if the applicant suggests it or agrees on its terms or it is suggested by a third party. Every condition must be justified on its own planning merits on a case by case basis. Specific circumstances where conditions should not be used include:

- Conditions which unreasonably impact on the deliverability of a development.
- Conditions reserving outline application details
- Conditions requiring the development to be carried out in its entirety
- Conditions requiring compliance with other regulatory requirements (e.g. Building Regulations, Environmental Protection Act)

A recent appeal case for an AD plant by Peel Environmental Services LTD and Marshalls Mono LTD known as the Fletcher Bank Case, (appeal ref APP/T4210/A14/2224754) was called in by the Secretary of State. The decision letters by the inspector and Secretary of State included an assessment of what conditions were reasonable for the AD plant. The Inspector distinguished between conditions that would meet all six tests as compared with those that would not. He commented:

'In my judgement, the following suggested conditions would be difficult for the local planning authority to monitor and require an intolerable level of supervision. They are day to day operational matters more appropriately controlled through the Environmental Permit. Therefore I do not support them. They involve control over: the outside storage of waste; how many of the process building's vehicular access doors may be open at a time and for how long; as well as, the performance and monitoring of the proposed odour control plant and emissions from the CHP plant.'

The Inspectors approach to conditions in this case was supported by the Secretary of State. Officers have been mindful of this appeal decision and the comments within it on conditions in drawing up their recommended list of conditions.

3. ADDITIONAL CONDITIONS AS IDENTIFIED AT PLANNING COMMITTEE 8TH JUNE 2016.

Following the last Committee, a meeting was held on site with the applicant in order to consider the requested additional conditions in more detail and explore how they might work in practice.

Whilst on site it was noted that a further planning application will be required to retain the location of the gas flare and office together with the presence of a second CHP unit.

3.1 Vehicle movement and weight recording.

Members wish monitoring of vehicle weights and movements. A weighbridge has been installed on site. Vehicles transporting feedstock for the AD plant will be weighed upon entering and leaving the AD plant part of the site in order to calculate the weight of feedstock. Records will be kept of feedstock type, weight, number of vehicle movements and where the vehicle has come from. Separate records will be made of feedstock entering the AD plant (metric tons) via a computerised monitor on the intake hopper that accounts for both liquid and solid elements of feedstock. Vehicles transporting digestate off site will also go over the weighbridge and a record will therefore also kept of these.

The applicant has offered to ensure via on site operational requirements that all vehicles going to the AD plant pass over the weighbridge so that they are recorded. However this is internal to the site and would not be able to be monitored or enforced. The site has been laid out so that there is sufficient space for vehicles going to the AD plant to bypass the weighbridge. Vehicles could be funnelled to go over the weighbridge through the erection of onsite barriers. The applicant considers this to unacceptably constrain vehicle movements on site. Having viewed the site layout, officers recognise that it would involve the erection of barriers which would by their purpose constrain vehicle movements. Operationally this would make access to the AD plant more difficult as it would preclude the ability for vehicles entering / leaving at the same time from passing each other.

Condition 10 controls the source and type of feedstock and requires records to be kept and submitted quarterly to the Local Planning Authority.

Condition 10 Revised –

10. i) The feedstock for the anaerobic digester shall be slurry, farmyard and chicken manure, grass and arable crops only from the sites named in the application (Hartnoll Farm 62.13ha, Manley Lane 37.60ha, plots 41.48ha, Maunders 7.71ha, and Wellington 23.55ha and shown on plan/aerial photos Drawing numbers 13425/T04 Revision A and 13425/T05 Revision A set out in the approved transport statement date stamped 21st August 2015).

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

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

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

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

Weighbridge data will be the primary source of this log book information as requested by this condition.

3.2 The installation of vehicle monitoring equipment.

Additional condition (22) -

Within 1 month from the date of approval, details are to be provided in writing to the Local Planning Authority of the location and type of electronic system to be installed to monitor the number and type of vehicles entering and leaving the anaerobic digester site. Such approved system is to be installed and operational prior to the first operation of the anaerobic digester site. Such results of the monitoring system shall be submitted to the Local Planning Authority quarterly or within any other frequency as requested by the Local Planning Authority. The approved system is to be so retained for the duration of the operation of the site.

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

This condition sets out a possible means of monitoring vehicles entering and leaving the site and would act to supplement weighbridge information. However from the recent site visit it is apparent that its installation would not be straightforward in that the main site access off the public highway will serve both the AD plant and an agricultural building /land. Any recording of vehicle movements and type at the site entrance would also capture non AD traffic and therefore would not form a reliable basis to monitor AD only related traffic. A second vehicle monitoring point could be

installed within the site on the ramp leading down to the AD plant. This would exclude some, but not all agricultural traffic and accordingly would give a better picture of AD related traffic. However the land owner anticipates some vehicle movements to service the agricultural land beyond would still be counted with those AD plant related.

This condition would be in addition to the feedstock and digestate vehicle records included under condition 10. As such, if added, the requirements of this condition would place a further requirement upon the applicant for vehicle records. Members will need to consider whether this would be reasonable, given the existing requirements under condition 10.

3.3 Control of digestate destination.

Condition 10 Revised –

10. i) The feedstock for the anaerobic digester shall be slurry, farmyard and chicken manure, grass and arable crops only from the sites named in the application (Hartnoll Farm 62.13ha, Manley Lane 37.60ha, plots 41.48ha, Maunders 7.71ha, and Wellington 23.55ha and shown on plan/aerial photos Drawing numbers 13425/T04 Revision A and 13425/T05 Revision A set out in the approved transport statement date stamped 21st August 2015).

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

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

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

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

The above revised wording of condition 10 incorporates at points ii) and iv) control over digestate destination. It would mean that digestate can only be pumped or transported by other means to these locations. A variation of condition application would be needed to amend these locations. Members need to consider whether this degree of control is reasonable given the highway movements anticipated and views of the Highway Authority.

3.4 Records of power output to be provided quarterly.

The proposal is for a 500kw AD plant and it has been assessed environmentally and by the Local Planning Authority on that basis. Under feed in tariff requirements, quarterly generation figures are recorded and submitted. A condition could require that these records also be submitted to the Local Planning Authority.

The proposal includes a single combined heat and power plant (CHP) which is adequate to achieve the generation figure set out in the application. Discussions with the applicant indicate their intention to maximise the efficiency of the operation of the plant without increasing the feedstock, traffic generation or impacts of the development. A condition limiting the generation to 500kw would inhibit maximisation of efficiency and mean that a generation of 501kw or more would be in breach of condition. Under the test of necessity, the Local Planning authority would need to demonstrate why it is necessary to control a 500kw exceedance (by any amount). It is likely to be argued by the applicant that this will be unreasonably restrictive as a exceedance of even 1kw would be in breach of condition and require extensive operational management to maximise efficiency without breaching the condition.

It is noted that whilst the application is for a 500kw plant with a single CHP unit, x2 CHP units have been installed on site. The applicant advises that this is for the purpose of back up and maintenance of the 1st CHP unit. Separate planning permission will be needed to retain this second unit or for the plant to operate at 1000kw (x2 output). Given the presence of a second CHP unit, Members may consider that this gives them the necessity for limiting the generation from the development to 500kw.

Additional condition (23) –

The permission hereby granted is for a 500kw anaerobic digester only. Power generation from the development shall not exceed 500kw. Records of power generation shall be kept and submitted quarterly in writing to the Local Planning Authority.

Reason - To ensure the power generation from the AD plant is in accordance with that as set out in the application and supporting information and in order to ensure that the impacts of the development are acceptable.

Members may wish to consider making an enforcement resolution seeking the removal of the second CHP unit which is not required for the operation of a 500kw plant although there is the option to request an application for its retention. Officers consider that the issuing of an enforcement notice to remove the second CHP unit could be warranted. The timescale for compliance would be twenty-eight days (28) after the notice takes effect.

Members are therefore advised to consider the following in addition to the determination of the application with associated conditions:

Enforcement recommendation:

That the Legal Services Manager be authorised to take any appropriate legal action, including the service of an enforcement notice or notices seeking the

removal of the second combined heat and power plant (CHP) from the site. In addition, in the event of the failure to comply with any notice served, to authorise prosecution, direct action and/or authority to seek a court injunction.

3.5 Access to metering systems.

Members sought to ensure Local Planning Authority access to on site metering systems in order to scrutinise them and provide independent verification of their data. Conditions seek to ensure that feedstock and digestate data from the weighbridge records and power generation (records for feed in tariff purposes) are submitted quarterly to the Local Planning Authority. Furthermore, feedstock input figures through the AD feedstock hopper (triolet) are also kept and are proposed to be conditioned to be submitted. These records in combination will provide extensive information on the operation of the AD plant.

Members will need to decide whether a further requirement of Local Planning Authority access to on site monitoring systems (at reasonable times) will meet the tests of necessity and reasonableness. If so, the following would achieve this:

Additional condition:

24. The Local Planning Authority shall be afforded access at reasonable times to all on site monitoring systems associated with the operation of the AD plant hereby granted.

Reason - To ensure the AD plant operates in accordance with the parameters and limitations as approved and as set out within the application and its supporting information.

3.5 Monitoring liaison groups.

At the meeting of Planning Committee on 8th June officers were asked to consider requiring the applicant to enter into a monitoring liaison group and reference was made to such arrangements as set up by Devon County Council on certain minerals and waste applications. Clarification has been gained from DCC on how these groups operate:

- i) There are a number of liaison groups for the various mineral and waste sites in the county.
- ii) They are informal arrangements and cannot be required by planning condition. At mineral and waste sites where there isn't a liaison group and there is a planning application DCC sometimes add a recommendation to the committee report that the applicants be requested to facilitate the setting up of a liaison group.
- iii) There's no legislative framework for the setting up of liaison groups.
- iv) They're not groups that are owned or operated by the planning authority – the authority acts as facilitator for the first meeting and assists the group with terms of reference and membership. Secretarial duties such as minute taking and agenda preparation are usually provided by the site operator.
- v) The group has no powers planning enforcement powers – these remain with the planning authority.

- vi) External bodies such as the Environment Agency are finding it difficult to resource such groups going forward and are tending to withdraw their support.

The applicant has been contacted about the instigation of such a group and is willing for one to be set up in connection with this development. Committee may wish to formally request that the applicant facilitate the setting up of a liaison group, but it cannot be made the subject of a planning condition.

3.6 Conclusions on conditions.

Officers have set out a response to the request from Members for additional conditions (22, 23, 24) and have amended condition 10 to control digestate destination. In order to apply them, Members need to be clear that these changes to conditions are warranted and meet the tests as set out at the beginning of this section, also bearing in mind the approach of the Fletcher Bank appeal inspector – whether they will require an intolerable level of supervision.

4. LIST OF CONDITIONS.

For Members benefit a full list of conditions incorporating those additional /amended is as follows:

1. The date of commencement of this development shall be taken as the 17th July 2015 when the application was registered by the Local Planning Authority.
2. The development hereby permitted is for the erection of an anaerobic digester and associated works which shall be carried out in accordance with the approved plans, approved reports and statements listed in the schedule on the decision notice.
3. Details of the colour and finish of the building materials to be used (including the digester dome) are to be submitted within 1 month of the date of this approval and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with these details within 2 months of approval of the submitted details.
4. Within 1 month of the date of this approval a Construction and Operational Environment and Traffic Management Plan shall have been submitted to and approved in writing by the Local Planning Authority.
The plan shall include details of:
 1. hours of working;
 2. hours of deliveries; including details of any importation of digestate associated with commencement of operations.
 3. dust suppression management measures;
 4. traffic management
 5. vehicle routing to and from the site;
 6. programme of works
 7. parking for vehicles of site personnel, operatives and visitors;

8. storage of plant and materials;
9. loading, unloading and movement of plant and materials within the site.
10. facilities for cleaning wheels on exiting vehicles

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

5. The passing bay on Crown Hill shall be completed in accordance with the details shown on plan '00030-GFL-Hartnoll-Passing bay' approved under planning permission 13/0160/MFUL within 3 months of the date the AD plant becomes operational and be so retained. Written confirmation of the date the AD plant first becomes operational shall be submitted to the Local Planning Authority within 1 week of this date.
6. Within three months of the date of this planning permission, a programme of archaeological work indicating details of the parts of the site it shall relate to will be implemented in accordance with a written scheme of investigation submitted by the applicant or their agent and approved by the Local Planning Authority.
7. The anaerobic digester facility hereby permitted shall not be brought into operation until a drainage scheme has been implemented in accordance with details that shall have been previously submitted to and approved in writing by the Local Planning Authority. Such scheme shall include details of the provision for the disposal of clean surface water by a Sustainable Urban Drainage System, and separate provision for disposal of foul waste and dirty surface/yard water. The scheme shall include specifications and a timetable for implementation. The water management system shall be completed in accordance with the approved details and retained and maintained for that purpose at all times.
8. There shall be no storage of chicken and farmyard manures or slurry within the application site except within the liquid buffer tank and feeder hopper serving the AD digester approved as part of this planning application.
9. All hedgerows within or on the boundary of the site located to the north west of the site and east adjacent to the highway shall be retained and maintained to a minimum height of 2 metres.
10. i) The feedstock for the anaerobic digester shall be slurry, farmyard and chicken manure, grass and arable crops only from the sites named in the application (Hartnoll Farm 62.13ha, Manley Lane 37.60ha, plots 41.48ha, Maunders 7.71ha, and Wellington 23.55ha and shown on plan/aerial photos Drawing numbers 13425/T04 Revision A and 13425/T05 Revision A set out in the approved transport statement date stamped 21st August 2015).
- ii) The digestate destination for the anaerobic digester shall be to the sites named in the application (Hartnoll Farm 62.13ha, Manley Lane 37.60ha, plots 41.48ha and Maunders 7.71ha and shown on plan/aerial photos Drawing

numbers 13425/T04 Revision A and 13425/T05 Revision A set out in the approved transport statement date stamped 21st August 2015).

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

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

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

11. Prior to installation, details of any external lighting including a lighting assessment which should include the following information:
- A description of the proposed lighting scheme together with hours of operation;
 - A layout plan of the proposed development site showing the lighting scheme together with light spread, spill and intensity;
 - Details of the proposed equipment design;
 - An assessment of the impact of the proposed lighting upon ecology; neighbouring properties, roads and character of the site and its surroundings;
 - Details of any proposed measures to mitigate or compensate for the possible impacts of the proposed lighting shall be submitted to and approved in writing by the Local Planning Authority.

Any approved external lighting shall be installed in accordance with the approved details and thereby retained.

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

13. The Tree Planting scheme submitted and approved plan WIN01_Redlinhay2_PP_004 shall be undertaken and completed within one month of the completion of the archaeological works subject to condition 6 above or within the next planting season following completion of the archaeological works, October-March whichever is the sooner. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

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

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

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

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

*(From the noise data supplied)

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

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

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

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

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

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

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

17. Heavy and light Goods vehicles along with plant under the control of the operators which deliver waste, remove digestate or biofertiliser or operate at the site shall only use non-intrusive broadband (white noise) vehicle noise alarms and/or reversing cameras. On such vehicles, there shall be no use of single or multi-pitch reversing beepers.
18. Written notification confirming the cessation of operations is to be given to the Local Planning Authority 3 month prior to the cessation of the use of the Anaerobic Digester plant hereby approved.
19. On the cessation of the use of the Anaerobic Digester plant hereby approved, the site shall be cleared of all buildings and structures, hardstandings bunds and any wastes within a period of six months from the date of cessation. After removal of the above, the surface of the site shall be regraded and be covered with topsoil to a depth of 500mm within a period of three months. The site shall then be planted in accordance with details to be agreed in writing by the LPA
20. Notwithstanding the submitted details, within 1 month from the date of the grant of planning permission, details of an earth bund and any stock fencing to enclose the western and southern sides of the site together with a landscaping scheme shall be submitted to and agreed in writing by the Local Planning Authority. The bund shall be provided in accordance with the agreed details prior to the development becoming first operational and the landscaping scheme shall be completed in accordance with the agreed details within the first planting season following the development becoming first operational. Once provided the bund and landscaping scheme shall be so retained. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.
21. The visibility splay at the site entrance shall be provided and laid out in accordance with plan 13425/T03 within 1 month of the date of this permission with no obstructions within the visibility area over 1m above the adjacent carriageway level. It shall thereafter be so maintained for that purpose.
22. Within 1 month from the date of approval, details are to be provided in writing to the Local Planning Authority of the location and type of electronic system to be installed to monitor the number and type of vehicles entering and leaving the anaerobic digester site. Such approved system is to be installed and operational prior to the first operation of the anaerobic digester site. Such results of the monitoring system shall be submitted to the Local Planning Authority quarterly or within any other frequency as requested by the Local Planning Authority. The approved system is to be so retained for the duration of the operation of the site.
23. The permission hereby granted is for a 500kw anaerobic digester only. Power generation from the development shall not exceed 500kw. Records of power generation shall be kept and submitted quarterly in writing to the Local Planning Authority.

- 24 The Local Planning Authority shall be afforded access at reasonable times to all on site monitoring systems associated with the operation of the AD plant hereby granted.

REASONS FOR CONDITIONS

1. In order to establish a legal commencement date for the development to enable the development to be monitored by the Local Planning Authority.
2. For the avoidance of doubt and in the interests of proper planning.
3. No development shall begin until details of the colour and finish of the building materials to be used (including the digester dome) has been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with these details.
4. To safeguard the amenities of the area and occupiers of nearby buildings in accordance with DM2.
5. In the interest of highway safety and to ensure that adequate passing facilities are available for vehicles attracted to the site in accordance with DM2 and DM22 of the Local Plan Part 3 (Development Management Policies).
6. To ensure, in accordance with paragraph 141 of the National Planning Policy Framework (2012) and the supporting text in paragraph 5.3 of the Mid Devon Local Plan Part 3: Development Management Policy DM27 (2013), that an appropriate record is made of archaeological evidence that may be affected by the development
7. To ensure adequate facilities are provided for the disposal of surface water from the development in accordance with policies DM2, DM22 and DM27 of the local Plan Part 3 (Development Management Policies).
8. To reduce odour levels within the site and to prevent pollution of the water environment in accordance with policy DM7 of Local Plan Part 3 (Development Management Policies)
9. In the interest of the visual amenity of the area and to protect the setting of the Grand Western Canal in accordance with policies DM2, DM22 and DM27 of the Local Plan Part 3 (Development Management Policies).
10. The application has been considered as a site accepting these feedstock types only and not as a general waste facility and consideration of the impacts on the environment, neighbouring residents and the road network has been made on this basis and in order to accord with policies DM5 and DM22 of the Local Plan Part 3 (Development Management Policies).

11. To protect the rural character of the area in accordance with policies COR2 of the Mid Devon Core Strategy (LP1) and DM5, DM22 and DM27 of the Local Plan Part 3 (Development Management Policies).
12. To prevent pollution of the water environment in accordance with policy DM7 of Local Plan Part 3 (Development Management Policies).
13. To ensure the archaeological works are completed prior to the planting of the screening to minimise disturbance to the planting scheme and to provide further screening for the site and assist with reducing any potential noise.
14. To minimise the potential for pollution and disturbance to local amenity, in accordance with policy DM7 of the Local Plan Part 3
15. To minimise the potential for pollution and disturbance to local amenity, in accordance with policy DM7 of the Local Plan Part 3
16. To minimise the potential for pollution and disturbance to local amenity, in accordance with policy DM7 of the Local Plan Part 3
17. To minimise the potential for pollution and disturbance to local amenity, in accordance with policy DM7 of the Local Plan Part 3
18. To ensure the Local Authority are made aware of the impending cessation of the use to enable proper consideration of the removal of the items on the site.
19. To achieve a satisfactory landscape/restoration
20. Reason: In the interest of the visual amenity of the area in accordance with policies DM2, DM22 of the Local Plan Part 3
21. To provide adequate visibility from and of emerging vehicles
22. In the interest of highway safety and consideration of the impacts on the environment, neighbouring residents due to the number of movements to and from the site and in order to accord with policies DM5 and DM22 of the Local Plan Part 3 (Development Management Policies).
23. To ensure the power generation from the AD plant is in accordance with that as set out in the application and supporting information and in order to ensure that the impacts of the development are acceptable.
24. To ensure the AD plant operates in accordance with the parameters and limitations as approved and as set out within the application and its supporting information.

Contact for any more information

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**Background Papers
File Reference**

15/01034/MFUL

Circulation of the Report

Cllrs Richard Chesterton
Members of the Planning Committee

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REPORT OF JENNY CLIFFORD, THE HEAD OF PLANNING AND REGENERATION

15/01034/MFUL - ERECTION OF A 500KW ANAEROBIC DIGESTER AND ASSOCIATED WORKS WITH 2 SILAGE CLAMPS. REVISED SCHEME TO INCLUDE THE CHANGE OF ORIENTATION OF THE LAYOUT AND INSTALLATION OF 2 DRIERS - LAND AT NGR 299621 112764 (RED LINHAY) CROWN HILL HALBERTON

REASON FOR REPORT:

To determine the planning application.

Relationship to Corporate Plan:

The emerging corporate Plan sets out four priorities including the economy, community and the environment, upon which this application has a bearing.

Financial Implications:

The Council must be in a position to defend and substantiate each of its reason for refusal.

Legal Implications:

Planning decisions must be made in accordance with the development plan unless material considerations indicate otherwise. The starting point for decision making is therefore the policies within the development plan.

Risk Assessment:

If Committee decide to refuse the application for reasons that cannot be sustained at appeal there is a risk of a successful appeal costs claim against the Council for reasons of unreasonable behaviour.

UPDATE TO PREVIOUS OFFICER REPORTS.

1. BACKGROUND.

At the meeting of Planning Committee on 6th April 2016, Members resolved as follows:

RESOLVED that Members were still minded to refuse the application however following the Counsel opinion outlined by the Head of Legal it was requested that the application be deferred to seek expert advice on all four reasons proposed for refusal.

Consultants were subsequently appointed to independently assess the proposed reasons for refusal.

2. THE CONSULTANT'S FINDINGS.

The following is a summary of the report produced by Peter Brett Associates on behalf of Mid Devon District Council. The findings of their report is summarised and is set out to address each of the reasons for refusal proposed by Planning committee in turn. **A copy of the consultant's report is attached.**

Proposed reason for refusal 1.

'In the opinion of the Local Planning Authority, due to the scale and siting of the proposed Anaerobic Digester installation, the development is considered to have a harmful effect on the rural landscape character and visual amenities of the area including when viewed from public vantage points on local roads and public footpaths including the Grand Western Canal, and it has not been demonstrated that this harm could be satisfactorily mitigated. The application is considered to be contrary to policies COR2 and COR5 of the Mid Devon Core Strategy 2007 (Local Plan Part 1), DM2, DM5 and DM22 of the Local Plan 3 Development Management Policies and the National Planning Policy Framework.'

Summary of consultant findings:

A similar scheme has been consented on the site, and therefore MDDC presumably has taken account of those issues set out in the reason and found the original scheme acceptable. This review finds that in landscape and visual terms, the scheme currently under construction is in most respects equal to or sometimes better than the consented scheme, and therefore the reason for refusal does not apply to the proposal as a whole.

However, it is important that when providing landscape mitigation for a scheme, it needs to be in character with its setting. The mitigation for the consented scheme was not well designed, but was nevertheless consented. A version of that mitigation has been proposed in the new application but crucially has been extended beyond the relatively enclosed and local context into a more open and more widely visible location, where this review believes it causes harm.

Additionally, if MDDC was not aware of the availability of more frequent and open views from the canal than the original LVIA stated, or of the reflective nature or inappropriate colour of the dome, then they may not have given consent to the original scheme and may not give consent to the scheme which is currently under construction, and the harm described in the draft reason would apply.

In terms of policy, COR2 of the adopted Core Strategy requires of development 'high quality sustainable design which reinforces the character and legibility of Mid Devon's built environment and creates attractive places' and COR5 states that 'the development of renewable energy capacity will be supported in locations with an acceptable local impact, including visual, on nearby residents and wildlife.'

Of the Development Management Policies, DM2 concerns high quality design and requires 'Clear understanding of the characteristics of the site, it's wider context and the surrounding area' DM5 requires renewable development to consider landscape character, and DM22 requires agricultural development to be 'well-designed, respecting the character and appearance of the area'.

As a result of the factors set out above, the scheme as now proposed fails to accord with those policies, although only in very specific areas.

In summary: The landscape and visual appraisal points to several critical areas of concern which could constitute a reason for refusal, as follows;

- The mitigation scheme for the original application was not well designed and for the new application it has been extended into a more open and more widely visible location, where it causes harm.
- The original LIVA did not make clear the views from the canal or the reflective nature or inappropriate colour of the dome. With the benefit of this information, the scheme which is currently under construction is considered to cause harm.
- The scheme as now proposed fails to accord with policy set out in the Core Strategy (COR2, COR5, DM2 and DM22), although only in very specific areas.

Proposed reason for refusal 2.

'The proposed development is located in close proximity to the Grand Western Canal Conservation Area. It is the opinion of the Local Planning Authority that if granted it would unacceptably detract from significance of the Conservation Area (a designated heritage asset) in terms of its character and appearance. Accordingly it is considered contrary to policies COR2 and COR5 of the Mid Devon Core Strategy 2007 (Local Plan Part 1), DM2, DM5, DM22 and DM27 of the Local Plan 3 Development Management Policies and the National Planning Policy Framework.'

Summary of consultant findings:

The proposal is not perceived to alter the existing character of the Conservation Area significantly, nor is it expected to hinder the experience of the asset substantially. The most prominent point of the application site is the dome of the anaerobic digester which is already present at the site, and was approved under the previous planning application. The dome is bright green in colour and is therefore prominent in the landscape.

There were no views of the application site from the stretch of Canal in closest proximity to the application site, as it was screened by hedgerows (Photo 3-3). Further along the Canal, the application site came into view (Photo 3-4). The view of the application site will become more limited by the proposed bund and vegetation screening. The additional features of the new proposal will not be higher or more dominant than the existing structures and are therefore considered unlikely to cause any additional setting impact to the Conservation Area. The elevation plans of the new proposal also show that the majority of the structures proposed under the

previously approved plans will be closer to the existing agricultural buildings, and are therefore less likely to change the long-distance views into the site from the Conservation Area. This assumes that the form and colour of these structures does not differ substantially from the existing agricultural buildings. In addition, the proposal incorporates additional planting in order to limit views of the site from the Conservation Area.

Given that the most prominent features at the site are perceived to be those which are already present at the site, and taking into consideration the inclusion of new screening planting, and that views from Conservation Area are interrupted by existing vegetation and hedgerows, the setting impact of the proposed development upon the Conservation Area is considered to be negligible.

Proposed reason for refusal 3.

‘In the opinion of the Local Planning Authority, due to the proximity of neighbouring dwellings, it is considered that the proposed development will have an unacceptably negative impact on the amenity of the occupiers of these neighbouring properties due to odours and noise associated with the development and running of the plant. The application is considered to be contrary to policies COR2 and COR5 of the Mid Devon Core Strategy 2007 (Local Plan Part 1), DM2, DM5, DM7 and DM22 of the Local Plan 3 Development Management Policies and the National Planning Policy Framework.’

Summary of consultant findings:

Noise: The noise impact has been correctly assessed and meets the relevant criteria with no further mitigation required. Even if the conclusions of the noise assessments in the two planning applications (13/01605/MFUL and 15/01034/MFUL) are similar (i.e. no significant noise impact), they are different in the amount of detail the assessment goes into. The methodology of the latest assessment is a lot more thorough, with calculations of the noise impact of all activities occurring on site. It is our view that an appropriate methodology and standards have been used for the assessment. We have also found the calculations, as part of the assessment, to be correct. Based on the data presented in the documents and the reviews of said documents, we would agree with the conclusions that the impacts from the different elements of the proposal would meet the relevant criteria and no further mitigation should be required.

Odour: There is no significant effect on residential amenity from odour and there is only a slight difference between the original and revised planning applications. Information within the consented and current planning application documents describes the likely odour from the process in sufficient detail for an assessment of the likely effect on amenity to be made. Controls in place through the Environmental Permitting process should mean that a significant effect on residential amenity is avoided (assuming that a permit for the operation is granted). There is only a minor difference in the likely odour generation potential of the consented and current planning applications. There is likely to be ‘slight adverse’ effect on residential amenity as a result of odour from the operations of the site. This is unlikely to constitute a significant environmental effect and therefore would not be classed as

an unacceptable negative impact on amenity. The development would therefore be in accordance with policy DM7 and by inference, DM5 and DM22 of the Local Plan Part 3 Development Management Policies. It is unlikely that the impact on residential amenity as a result of odour from the site would justify refusal of the planning application.

Proposed reason for refusal 4.

4a. 'The submitted transport statement is not considered sufficiently up to date and does not address traffic generation associated with the newly erected livestock building on the farm holding. It is the view of the Local Planning Authority that this will impact on the ability of the Anaerobic Digester installation to be able to adequately function without additional and unacceptable traffic generation to the detriment of local amenities and character, contrary to policies COR2 and COR5 of the Mid Devon Core Strategy 2007 (Local Plan Part 1), policies DM2, DM5 and DM22 of the Local Plan Part 3 Development Management Policies and the National Planning Policy Framework. '

OR

4b. 'It is the view of the Local Planning Authority that it has not been satisfactorily demonstrated that the proposed Anaerobic Digester when considered in conjunction with other approved development for livestock buildings, will not result in additional and unacceptable traffic generation to the detriment of local amenities and character, contrary to policies COR2 and COR5 of the Mid Devon Core Strategy 2007 (Local Plan Part 1), policies DM2, DM5 and DM22 of the Local Plan Part 3 Development Management Policies and the National Planning Policy Framework.'

Consultant findings:

The method of assessment is robust and the development proposed under the current planning application is not considered to cause transport or highway impacts that are greater than for the consented development. In overall conclusion, the development proposed under the current planning application is not anticipated to lead to transport or highway impacts (in terms of road safety and / or operation of the network) that are greater than for the consented development. On this basis it is considered unlikely that the development would have a detrimental impact on the local amenity and character as referred in the local policies specified in the potential reasons for refusal 4 a/b.

3. OTHER ISSUES RAISED WITHIN THE CONSULTANT'S REPORT.

The consultant identified two issues within the report with regard to compliance with specific highway related conditions on the previous approval 13/01605/MFUL. These are:

- The passing bay has still to be constructed in accordance with condition set out in 13/01605/MFUL,

- The visibility splay at the site entrance is not undertaken in accordance with conditions. The site access is an existing access associated with the agricultural building on site. The visibility splay required by the application 13/01605/MFUL was to provide uninterrupted views 33m either side of the entrance set back 2.4m from the edge of the carriage way. It was stated in approved Plan 13425/T03 that the splay would be provided by trimming back the existing hedgerow to the east of the entrance. The consultant has expressed concern that the splay to the east has not been completed, but furthermore does not see it as being necessary, could lead to increased traffic speed and through the cutting back /removal of hedge will affect the rural character of the lane at that point.

Officers have forwarding the consultant's findings on these matters to DCC Highways. The DCC Highway response is set out below:

'It is accepted the passing bay is temporary (at the request of Greener for Life) until full construction is completed for the very reasons identified in the report about damage to the road. Once the construction is complete, which was still ongoing, the developer will return to site to carry out the full construction including the full width reinstatement in a manor described by your Consultant. The temporary layby was considered of a suitable nature for construction to commence. The road surface and condition will be inspected prior to the developer returning to site and the Consultant's recommendation of full reconstruction is accepted and will be pursued. I would consider these elements as enforceable if the works are not completed as agreed but would not consider them a reason for refusal, in addition to which the approach taken and agreed appear to be justified and the postponement will result in a betterment, as the designed works may have been abortive and required further remedial and masked the failure of the road on the inner edge.'

'With regard to the access visibility the 33m is the required site stopping distance for the observed speed of traffic and should be made available. I would disagree with the consultant as the constraints that are on the road now will still remain and even if speed increase they will not be significant given the bends and forward visibilities and my recommendation is that the conditioned splays remain. However should the Local Planning Authority be minded to reduce the impact on the hedgerow and accept the Consultants observations I would have no objections but suggest that the required splays be considered after a period of time and an observation of the accident statistics.'

Your officer's assessment of these two points is that firstly with regard to the passing bay this can be controlled by way of a condition as set out in condition 5 below, with strict time scales for implementation. Any repair works to the carriageway /passing place during construction are likely to need to be repeated as further damage is likely. It is most important to ensure that repairs are made at the end of the construction period.

The Highways Authority is of the view that in the interests of highway safety it would be more appropriate for the visibility splay to be fully implemented and maintained thereafter. The trimming back of the hedge will have some negative impacts on the

area due to the loss of the vegetation, and will need to be undertaken at regular times of the year, to maintain the appropriate visibility.

It is your officer's view that undertaking the appropriate visibility splay as set out in plan 13425/T03 is the appropriate way forward to be able to clearly ensure highway safety. The loss of some hedgerow material in this location will not have such an adverse impact as to cause undue harm or detract from the character of the area. The previous approval 13/01605/MFUL considered that the visibility splay was required for the scheme proposed and your officer is of the view that there has been no change in circumstances associated with this application. Therefore would recommend the inclusion of a condition requiring the implementation of the visibility splay as set out in plan 13425/T03.

4. OVERALL CONCLUSION ON THE CONSULTANT'S FINDINGS.

In their independent assessment for the Council on the proposed reasons for refusal, the consultant has concluded that there are certain specific elements of the proposed scheme, the landscape and visual impact of which could form a reason for refusal. These are in respect of the extension of the steep bund to run to the south and west of the site and the colour and reflectiveness of the dome. The consultant is willing to act on behalf on the Council to defend this as a reason for refusal framed around these points of landscape and visual impact. However, the consultant has also raised a significant point –that in his view an Inspector would see these points as valid, but that he would be likely to consider that they should be addressed through negotiation and / or design conditions attached to a consent, rather than refuse and appeal. Instead the approach should be to negotiate a modification to the bund, additional planting and a condition to control the colour and reflectiveness of the dome.

There are three other proposed reasons for refusal – impact on residential amenity (noise and odour), impact upon the canal conservation area and traffic generation. All have been assessed with the conclusion that the impact of the scheme upon them is not significant. The consultant does not support these proposed reasons for refusal and would not assist the Council to defend them.

5. CHANGES TO PROPOSED CONDITIONS.

In response to issues raised within the consultant's report, several amendments to conditions from those set out in the initial officer report are proposed.

Amended conditions:

Condition 5

The passing bay on Crown Hill shall be completed in accordance with the details shown on plan '00030-GFL-Hartnoll-Passing bay' approved under planning permission 13/0160/MFUL within 3 months of the date the AD plant becomes operational and be so retained. Written confirmation of the date the AD plant first becomes operational shall be submitted to the Local Planning Authority within 1 week of this date.

Condition 11

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

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

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

Conditions 15

Change Completion (on the last Line) to Operational commencement or completion whichever is the earlier.

Additional condition:

Condition 20

Notwithstanding the submitted details, within 1 month from the date of the grant of planning permission, details of an earth bund to enclose the western and southern sides of the site together with a landscaping scheme shall be submitted to and agreed in writing by the Local Planning Authority. The bund shall be provided in accordance with the agreed details prior to the development becoming first operational and the landscaping scheme shall be completed in accordance with the agreed details within the first planting season following the development becoming first operational. Once provided the bund and landscaping scheme shall be so retained. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

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

Condition 21

The visibility splay at the site entrance shall be provided and laid out in accordance with plan 13425/T03 within 1 month of the date of this permission with no obstructions within the visibility area over 1m above the adjacent carriageway level. It shall thereafter be so maintained for that purpose.

REASON: To provide adequate visibility from and of emerging vehicles

Informative note.

1. You are advised that condition 20 seeks a revised bund and landscaping scheme design that is more sympathetic to local landform and character.

Contact for any more information

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Background Papers

File Reference

15/01034/MFUL

Circulation of the Report

Cllrs Richard Chesterton
Members of the Planning Committee

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Proposed Anaerobic Digestion Plant at Red Linhay in Halberton, Tiverton

Technical Report

On behalf of **Mid Devon District Council**



Project Ref: 38071| Rev: A – Final Issue to MDDC | Date: May 2016



Document Control Sheet

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1 Introduction

1.1 Project Brief

- 1.1.1 Peter Brett Associates (PBA) LLP has been commissioned by Mid Devon District Council (MDDC) to provide technical advice in relation to planning application 15/01034/MFUL for an Anaerobic Digester (AD) plant to be located at Red Linhay in Halberton, Tiverton.
- 1.1.2 The application site is located approximately 1.5km west of the village of Halberton and 5km east of Tiverton in the district of Mid Devon. The AD plant is to be situated on Crown Hill approximately 500m south of Post Hill which links Halberton to Tiverton.
- 1.1.3 PBA are commissioned to review and provide independent advice on the four reasons for refusal proposed by MDDC Planning committee members in relation to the planning application. Further details surrounding the planning application and the potential reasons for refusal are provided in the following section of the report.

1.2 Planning Context

- 1.2.1 Having undertaken a review of relevant documentation provided by MDDC or obtained from the planning portal, PBA understands the planning context surrounding this project to be as follows:

Planning Application 13/01605/MFUL

- 1.2.2 Planning permission was granted on the 10th July 2014 for the installation of an anaerobic digester and associated works with 4 silage clamps to generate 500 kW of electricity converted from biogas via a combined heat and power unit. Some of the power will be used to run the site with the remainder exported to the National Grid.

Planning Application 14/00801/FULL

- 1.2.3 Following the above approval, the landowner submitted a revised application for the erection of an agricultural livestock building which was granted permission in 2012 (reference 12/00630/FULL). The livestock building was required for the business of rearing and keeping cows, in this case 46 pedigree and commercial beef cattle. It is understood that the livestock building in question has been constructed.

Planning Application 15/00382/FULL

- 1.2.4 A further agricultural livestock building was granted approval to be constructed in March 2015. This building was required for an additional 25 cattle to be housed and managed. It is understood that the livestock building in question has been constructed.

Planning Application 15/01034/MFUL

- 1.2.5 It is understood that the development consented under application 13/01605/MFUL is being constructed on the site but not in accordance with the approved plans. This latest planning application has therefore been submitted to regularise the unauthorised works that are currently being undertaken.

1.2.6 The report on the application considered at Planning Committee on 13th January 2016 set out a schedule of both the components of the consented scheme and that of the current application together with a summary of the changes. The extent of changes between the approved scheme and the scheme currently under consideration as summarised by MDDC are:

1. *The site has increased in size from 0.91 hectares to 1.23 hectares. The majority of the area is the increase to the length of the silage units and a larger bunded area. The site now extends further to the south/south-east by 36 metres to the internal base of the bund and 46 metres to the outside edge of the bund and is therefore closer to the Grand Western Canal.*
2. *The main AD structures have been re-aligned to a north-south axis from an east-west axis.*
3. *The silage clamps have reduced in number from 4 to 2 and have reduced in size and capacity from 7,844 cubic metres to 7,200 cubic metres which represents a reduction of 644 cubic metres.*
4. *Re-location of the digester tank to the site directly to the south of the anaerobic digester unit which is located in approximately the same point as the previous approval.*
5. *The digester tank is larger, increasing from 3,409 cubic metres to 3,927 cubic metres which represents an increase of 518 cubic metres.*
6. *Buffer tank is 1m higher than the approved size.*
7. *CHP unit is 1.5m longer and 0.4m wider, but of the same height.*
8. *New buildings including Control Building, Gas compressor building, Transformer HV and LV, Office Building, 2 x Dryers.*
9. *Additional information submitted including Historic Environment Site Assessment, Landscape response (East Devon), Ground water Vulnerability Plan, additional Noise Assessment Document, Transport Statement Addendum.*

1.2.7 The application was first considered at Planning Committee on 13th January 2016 and Officer recommendation was for approval with conditions. At that meeting Members of Committee:

RESOLVED that Members were minded to refuse the application and therefore wished to defer the decision to allow for a report to be received setting out:

a) the implications of the proposed reasons for refusal based on concerns regarding landscape and visual impact, the impact on the character and appearance on the Grand Western Canal conservation area, the impact on residential amenity and whether the transport plan was up to date, accurate and could be relied upon.

b) Potential enforcement action.

1.2.8 The application was subsequently returned to the Committee at the meeting of 6th April 2016. At this second meeting Members:

RESOLVED that:

a) The application be deferred to seek expert advice on all four of the reasons proposed for refusal;

b) The Head of Planning and Regeneration be requested to write a further letter to the applicant informing them that they were proceeding at their own risk.

1.2.9 In accordance with this resolution, MDDC has appointed PBA to review and advise on the four potential reasons for refusal proposed by members which are:

1. *In the opinion of the Local Planning Authority, due to the scale and siting of the proposed Anaerobic Digester installation, the development is considered to have a harmful effect on the rural landscape character and visual amenities of the area including when viewed from public vantage points on local roads, public footpaths including the Grand Western Canal and it has not been demonstrated that this harm could be satisfactorily mitigated. The application is considered to be contrary to policies COR2 and COR5 of the Mid Devon Core Strategy 2007 (Local Plan Part 1), DM2, DM5 and DM22 of the Local Plan 3 Development Management Policies and the National Planning Policy Framework.*
2. *The proposed development is located in close proximity to the Grand Western Canal Conservation Area. It is the opinion of the Local Planning Authority that if granted it would unacceptably detract from significance of the Conservation Area (a designated heritage asset) in terms of its character and appearance. Accordingly it is considered contrary to policies COR2 and COR5 of the Mid Devon Core Strategy 2007 (Local Plan Part 1), DM2, DM5, DM22 and DM27 of the Local Plan 3 Development Management Policies and the National Planning Policy Framework.*
3. *In the opinion of the Local Planning Authority, due to the proximity of neighbouring dwellings it is considered that the proposed development will have an unacceptably negative impact on the amenity of the occupiers of these neighbouring properties due to odours and noise associated with the development and running of the plant. The application is considered to be contrary to policies COR2 and COR5 of the Mid Devon Core Strategy 2007 (Local Plan Part 1), DM2, DM5, DM7 and DM22 of the Local Plan 3 Development Management Policies and the National Planning Policy Framework.*
4. *(a) The submitted transport statement is not considered sufficiently up to date and does not address traffic generation associated with the newly erected livestock building on the farm holding. It is the view of the Local Planning Authority that this will impact on the ability of the Anaerobic Digester installation to be able to adequately function without additional and unacceptable traffic generation to the detriment of local amenities and character, contrary to policies COR2 and COR5 of the Mid Devon Core Strategy 2007 (Local Plan Part 1), policies DM2, DM5 and DM22 of the Local Plan Part 3 Development Management Policies and the National Planning Policy Framework.*

OR

4. *(b) It is the view of the Local Planning Authority that it has not been satisfactorily demonstrated that the proposed Anaerobic Digester when considered in conjunction with other approved development for livestock buildings, will not result in additional and unacceptable traffic generation to the detriment of local amenities and character, contrary to policies COR2 and COR5 of the Mid Devon Core Strategy 2007 (Local Plan Part 1), policies DM2, DM5 and DM22 of the Local Plan Part 3 Development Management Policies and the National Planning Policy Framework.*

1.3 Anaerobic Digester Plant Details

- 1.3.1 PBA understands that the Combined Heat and Power AD Plant is proposed for the purpose of recycling agricultural material to generate energy (producing electricity to export to the national grid) and to produce fertilizers as a by-product. AD is a treatment that digests material in the absence of oxygen, producing a biogas that can be used to generate electricity and heat.

- 1.3.2 Almost any organic material can be processed with AD. In this case, the feedstock going into the facility would consist of maize, grass silage, manure and beet from the area surrounding the facility.
- 1.3.3 AD also produces a solid and liquid residue called digestate which can be used as a soil conditioner to fertilise land. The amount of biogas and the quality of digestate obtained will vary according to the feedstock used. It is proposed to distribute the digestate back to the land as per normal agricultural activities such as taking manures to land, with this providing a wholly sustainable process.

1.4 Report Structure

- 1.4.1 PBA's findings and recommendations in relation to each of the potential reasons for refusal in relation to application 15/01034/MFUL are contained within this report which is structured as follows:
- **Chapter 2** – discusses landscape and visual related issues in relation to the proposed reason for refusal 1;
 - **Chapter 3** – discusses heritage related issues in relation to the proposed reason for refusal 2;
 - **Chapter 4** – discusses odour related issue in relation to the proposed reason for refusal 3;
 - **Chapter 5** – discusses noise related issues in relation to the proposed reason for refusal 3;
 - **Chapter 6** – discusses transport and highway related issues in relation to the proposed reasons for refusal 4a or 4b; and finally
 - **Chapter 7** – provides an overall summary and conclusion to the report.

2 Landscape & Visual Issues Relating to Proposed Reason for Refusal 1

2.1 Introduction

2.1.1 The following tasks are reported in this document:

- Our findings of the desk based and site work;
- A recommendation based on our professional opinion on the application submission, the scheme and the proposed reason for refusal 1, having regard to planning policies and taking into account the details of the application and its supporting information;
- The difference between the consented and proposed schemes and whether there are judged to be any additional adverse effects arising from the current application which would justify refusal of planning permission;
- If refusal is recommended, why the application is unacceptable in contrast with the earlier scheme;
- A review of the proposed reason for refusal 1 and whether this could be supported at a Planning Inquiry.

2.1.2 The following documents were reviewed during preparation of this report:

- The brief prepared by MDDC; and
- The Landscape and Visual Impact Assessments of September 2013 and May 2015, produced by Viento Environmental Limited.

2.1.3 A site visit was undertaken on 13th May 2015 by a Chartered Landscape Architect.

2.1 Existing Site Conditions

2.1.1 Since the September 2013 LVIA, two additional agricultural buildings have been constructed in the vicinity of the site (see paragraphs 1.2.3 and 1.2.4), which has significantly changed the context of the application site. Additionally, as a bio digester scheme is under construction, albeit not to the consented layout, it is possible to have a clearer idea of the effects of the scheme. For instance, the dome is largely constructed and the earthworks complete.

2.2 Review of Documents

2.2.1 We have undertaken a rapid review of the two LVIAs to consider points that could have changed MDDC's determination of the applications rather than seek academic issues that are only of interest to landscape practitioners.

2.2.2 Both documents are claimed to be based on Guidelines for Landscape and Visual Impact Assessment (2013), and the rapid review shows this to be generally the case. However, from the documents reviewed, there appears to be no definition of sensitivity of the receptor or magnitude of change, so it is not possible to understand how the degrees of sensitivity and magnitude have been arrived at. As a result, the Assessments are not considered to be robust or transparent.

- 2.2.3 The assessment of landscape fabric takes no account of the effects on landform in terms of both the changes to ground levels to prepare development platforms on a sloping site, but also the construction of the screening bunds.
- 2.2.4 With the consented scheme, the bund associated with the scheme is not mentioned in the LVIA, and may have been added after the LVIA was undertaken. Drawing WIN01_Redlinhay_PP_05 (included in [Appendix A](#)) which shows the bund is dated June 2014 whereas the LVIA is dated September 2013. This is of importance as given its gradient of what appears to be 1:1, it is clearly out of character with the gentle slopes of the site and its context. However, paragraphs 49 to 52 do not mention any effects on landform.
- 2.2.5 The application LVIA describes the bund at paragraph 21, and sets out that the bund will 'aid integration of the application into its surroundings'. At paragraph 48, landform is listed as one of the aspects of landscape fabric that could be effected by development, yet at paragraph 52, considering construction effects, it is stated that 'landscaping proposals', which is taken to mean planting, 'on the earth bund would be planted at the end of the construction phase as a beneficial effect on the landscape fabric of the site.' No account is given of the effects of the bund on the character of the existing landform. Given the gentle existing gradients of the site, the bund, which is not given a gradient but appears to be steep in drawing PP_006 (see [Appendix B](#)), is clearly out of character with the context and certainly is not an integrating feature. The bund is only to be planted along its top, which will further emphasise its steep character and not disguise the slopes, which are unlikely to retain grass cover.
- 2.2.6 It is bizarre to consider that there will be a benefit during the construction phase by undertaking planting at the end of it, given that the planting will have no effect at that stage and the exposed steep slopes will be out of character and would more than negate the effects of new planting.
- 2.2.7 The effects of the maturing new planting are not taken account of during the operational stage, nor is there a description of what will happen to the bund and its planting during decommissioning.
- 2.2.8 The viewpoint selection appears generally representative, with some exceptions.
- 2.2.9 Viewpoint 1 is taken from Crown Hill Bridge, over the Grand Western Canal, but attributes views to boat users who clearly would not have a view from a road bridge over the canal. Photograph A (included in [Appendix C](#)) produced for this report, is taken from the pedestrian and cycle ramp leading down to the canal, and shows the scheme that is under construction. Views of the dome disappear about 40m after leaving the road.
- 2.2.10 Viewpoint 3 in both LVIAs is a view from the Grand Western Canal, which is a Conservation Area and a Country Park, although not acknowledged in either LVIA. However, it is given a high sensitivity, which is reasonable and this review would be expected given PBA's landscape methodology, but as no criteria are set out it is not possible to establish the reasoning.
- 2.2.11 The photographs used for Viewpoint 3 are taken in such a way that canal side trees and hedges partly obscure the site and therefore the proposal. This is by no means typical, as further south and south west along the canal, there are much more open views towards the site, as can be seen in photographs B, C and D prepared for this review (also included in [Appendix C](#)). There are also views filtered to some extent by hedge growth. As a result, for users of the tow path and the canal, heading northwards along the canal, the site and the scheme, currently under construction, is very much the focus of the view when taking in the panorama that includes the canal itself and the landscape beyond.
- 2.2.12 In Viewpoint 5, it is again stated that the dome will be lower than the agricultural buildings, and photograph E (in [Appendix C](#)) of this review from approximately the same location shows that not to be the case.

- 2.2.13 In the LVIA for the consented scheme, no mention is made of the relationship to any existing buildings in the viewpoint analysis in Table 3. In the LVIA for the application, the description of the proposals in Viewpoint 3 in Table 3 states that all structures, including the dome, will be 'at a lower height than the existing agricultural building to the east'. Photographs B to E prepared for this report show that the dome is equivalent to or higher than the agricultural building.
- 2.2.14 The LVIA also mentions that the development will be seen adjacent to the existing built form. It is clear from photographs B, C and D in this report that the dome is quite separate from the agricultural buildings to the east and much larger than the buildings to the north, which are relatively long and low.
- 2.2.15 The viewpoint and its analysis are therefore misleading. There is a much greater range of viewpoints with much clearer views of the scheme than set out, and those effects are spread over a much greater area.
- 2.2.16 Therefore, those major/moderate effects on walkers and cyclists are spread over a larger area than Viewpoint 3 implies. This means that the information available to assist the LPA in making their decision on both applications was not adequate.
- 2.2.17 The LVIAs make no mention of colour or reflectivity. When undertaking the photography for this review, it was notable that the surface of the dome produced glare in the bright and sunny conditions. Additionally, the green selected for the finish of the dome is much too bright, so that it contrasts even with the brighter greens of foliage in mid-May.
- 2.2.18 In the LVIA for the consented scheme, there is no mention of a lighting scheme for the site. However, the site visit confirmed that external lighting is being provided. The provision of external lighting requires a lighting assessment based on existing lighting levels in the vicinity of the site in order to determine the impact.

2.3 Landscape Proposals

- 2.3.1 The landscape proposals for the application show bunding that is much more extensive than that of the consented scheme. No gradients are shown for the bunding but the drawing shows it as steep and out of character with the landscape in which it is located, where the slopes are gentle, as was the case with the consented scheme. However, given that the extended bunding, currently under construction, runs along the western boundary, it is clearly visible in the views from the canal where it is seen extending into the more open countryside. No planting is proposed on the steep slopes, and without gradients it is not clear if planting would be achievable.

2.4 Comparison of Schemes

- 2.4.1 Given that a scheme has already been consented on the site and established the ability of the site to accommodate such development, one of the key issues is the difference between the two schemes. The applicant has produced a plan and elevations showing the two schemes overlaid to show the differences, and an overlaid plan has been produced for this review showing the bunds and landscape treatment for both schemes (see figure in [Appendix D](#)). In summary, setting aside the bunds, the scheme under construction has advantages over the consented scheme in that the dome appears slightly lower as a result of lowering of ground levels, and slightly nearer the other proposed structures. Additionally, many structures are much lower and although the site is more extensive, the effects are reduced as can be seen in the applicant's drawing E10v_001 (included in [Appendix E](#)) which is a comparison of the south elevation.
- 2.4.2 As the applicant points out, additional buildings have been consented and as the site survey for the review has shown, they have now been constructed. In many closer views, those new buildings have provided a much more developed context than would have been the case in

the LVIA for the consented scheme. In the more distant views from the canal, the effects of those buildings on the context of the development are less obvious.

- 2.4.3 As set out in the analysis of viewpoints above, the extension of the rather clumsy bunding is a significant difference between the two schemes, and has not been adequately covered in the LVIA. As the photographs provided show, it is a notable change to the proposal that is out of character with its setting.

2.5 Draft Reasons for Refusal

- 2.5.1 The draft reason for refusal 1 refers to landscape and visual issues and reads:

In the opinion of the Local Planning Authority, due to the scale and siting of the proposed Anaerobic Digester installation, the development is considered to have a harmful effect on the rural landscape character and visual amenities of the area including when viewed from public vantage points on local roads, public footpaths including the Grand Western Canal and it has not been demonstrated that this harm could be satisfactorily mitigated. The application is considered to be contrary to policies COR2 and COR5 of the Mid Devon Core Strategy 2007 (Local Plan Part 1), DM2, DM5 and DM22 of the Local Plan 3 Development Management Policies and the National Planning Policy Framework.

- 2.5.2 However, a similar scheme has been consented on the site, and therefore MDDC presumably has taken account of those issues set out in the reason and found the original scheme acceptable. This review finds that in landscape and visual terms, the scheme currently under construction is in most respects equal to or sometimes better than the consented scheme, and therefore the reason for refusal does not apply to the proposal as a whole.
- 2.5.3 However, it is important that when providing landscape mitigation for a scheme, it needs to be in character with its setting. The mitigation for the consented scheme was not well designed, but was nevertheless consented. A version of that mitigation has been proposed in the new application but crucially has been extended beyond the relatively enclosed and local context into a more open and more widely visible location, where this review believes it causes harm.
- 2.5.4 Additionally, if MDDC was not aware of the availability of more frequent and open views from the canal than the original LVIA stated, or of the reflective nature or inappropriate colour of the dome, then they may not have given consent to the original scheme and may not give consent to the scheme which is currently under construction, and the harm described in the draft reason would apply.
- 2.5.5 In terms of policy, COR2 of the adopted Core Strategy requires of development ‘high quality sustainable design which reinforces the character and legibility of Mid Devon’s built environment and creates attractive places’ and COR5 states that ‘the development of renewable energy capacity will be supported in locations with an acceptable local impact, including visual, on nearby residents and wildlife.’
- 2.5.6 Of the Development Management Policies, DM2 concerns high quality design and requires ‘Clear understanding of the characteristics of the site, its wider context and the surrounding area’ DM5 requires renewable development to consider landscape character, and DM22 requires agricultural development to be ‘well-designed, respecting the character and appearance of the area’.
- 2.5.7 As a result of the factors set out above, the scheme as now proposed fails to accord with those policies, although only in very specific areas.
- 2.5.8 In conclusion, elements of the design of the scheme, namely the extension of the steep bund to run to the south and south west of the site, and the bright green colour and reflectiveness of the dome, are important issues in relation to the design of the scheme. A Planning Inspector

would probably view the points as valid but that they should be addressed through negotiation and/or design conditions attached to a consent, rather than at a costly and time consuming inquiry. We believe that there is only about 10 to 20% likelihood of the appeal being dismissed.

- 2.5.9 Instead, an approach would be to seek to negotiate a modification to the bund so that it has a shallower outer slope, more akin to the adjacent landform than is currently proposed. Additionally, if there are problems with carrying out additional planting on the bund because of concerns about its integrity, then you should seek to agree additional planting along the toe of the bund.
- 2.5.10 The shade of green for the dome does not accord with the approved colour for the consented scheme, and is inappropriate because it is too bright. It also has a reflective surface which, combined with the shade of green, means that the dome is too prominent in local to medium distant views. The colour and the reflectiveness could be controlled through a condition.

3 Heritage Issues Relating to Proposed Reason for Refusal 2

3.1 Introduction

- 3.1.1 AB Heritage Limited (hereinafter AB Heritage) has been commissioned by Peter Brett Associates (PBA) to produce a Heritage Statement to cover the proposed development at Red Linhay, Halberton, Tiverton, Devon.
- 3.1.2 This report aims to inform on the impact of the proposal on the setting of the Grand Western Canal Conservation Area, as part of PBA's investigation into reasons for refusal.
- 3.1.3 The conclusions of this report relate only to the current proposal in place for the site, and no previous planning applications.

3.2 Site Location & Description

- 3.2.1 The application site lies at Red Linhay, c. 1km south-west of the centre of Halberton village, in Tiverton, Devon; centred at approximately SS99598 12799. The site occupies c. 1.7ha over part of a rectangular field within an agricultural landscape, between the town of Tiverton, and Sampford Peverell village, to the south of the M5 motorway.
- 3.2.2 Prior to the commencement of ongoing development at the application site, a barn and concreted area were present along the northern boundary of the site. The field is bound to the west by an access road to additional agricultural buildings, while further arable fields lie to the south and east. The northern field boundary meets the Crown Hill road, where the Grand Western Canal passes the application site at c. 50m to the east.
- 3.2.3 The site is currently under construction for a new AD (see Section 1.4 and Figure 2 & 3). A Stop Notice is currently in place at the site as works towards the proposed development have been commenced.

3.3 Geology & Topography

- 3.3.1 The majority of the application site lies upon a sandstone bedrock, consisting of the Tidcombe Sand Member. This sedimentary bedrock was formed in the Permian Period, when rivers were depositing mainly sand and gravel detrital material in channels formed river terrace deposits, with fine silt and clay from overbank floods forming floodplain alluvium and some peat bogs.
- 3.3.2 A small area in the east of the application site lies upon the Halberton Breccia Formation. This bedrock was also a sedimentary formed in the Permian Period, but in a local environment of hot deserts (BGS 2016).
- 3.3.3 No superficial deposits have been recorded in this area.

3.4 Proposed Development

- 3.4.1 There is ongoing development within the application site, following a former approved planning application for anaerobic digester. A subsequent application has been submitted for additional structures to be constructed, and for the area of development to be extended, with additional planting and screening. These plans show that the form of the structures surrounding the existing anaerobic digester will be lower in height and closer to the agricultural buildings at the site which were present before recent construction began.

3.5 Statutory Protection for Heritage Assets

- 3.5.1 Current legislation, in the form of the Ancient Monuments and Archaeological Areas Act 1979, provides for the legal protection of important and well-preserved archaeological sites and monuments through their addition to a list, or 'schedule' of archaeological monuments by the Secretary of State for Culture, Media and Sport.
- 3.5.2 Likewise, structures are afforded legal protection in the form of their addition to 'lists' of buildings of special architectural or historical interest. The listing of buildings is carried out by the Department of Culture, Media and Sport under the Planning (Listed Buildings and Conservation Areas) Act, 1990. The main purpose of the legislation is to protect buildings and their surroundings from changes that would materially alter the special historic or architectural value of the building or its setting. This legislation also allows for the creation and protection of Conservation Areas by local planning authorities to protect areas and groupings of historical significance.

3.6 National Planning Policy

- 3.6.1 The NPPF sets out government policy on the historic environment, which covers all elements, whether designated or not, that are identified as 'having a degree of significance meriting consideration in planning decisions, because of its heritage interest'.
- 3.6.2 One of the over-arching aims is to 'Conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations'. To achieve this, local planning authorities can request that the applicant describe "the significance of any heritage assets affected, including any contribution made by their setting". The level of detail required in the assessment should be "proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance". It goes on to say that "where a site on which development is proposed includes or has the potential to include heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation."
- 3.6.3 A key policy within the NPPF is that "when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be.
- 3.6.4 With regard to non-designated heritage assets specific policy is provided in that a balanced judgement will be required having due regard to the scale of any harm or loss and the significance of the heritage asset affected.

3.7 The Mid Devon Local Plan, Part 3: Development Management Policies

'Heritage assets and their settings are an irreplaceable resource.

Accordingly, the Council will:

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

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

c) Only approve proposals that would be likely to substantially harm heritage assets and their settings if substantial public benefit outweighs that harm or the requirements of requirements of paragraph 133 of the National Planning Policy Framework are met.

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

e) Require developers to make a proportionate but systematic assessment of the impact on setting as set down in the guidance from English Heritage: "The Setting of Heritage Assets".'

3.8 Site Visit

- 3.8.1 At the time of the site visit, the application site contained a number of features covered by a previously approved planning application, including the AD and a number of associated structures.
- 3.8.2 Construction for the more recent proposal was evident, particularly in the form of a circular excavated area in the location of a proposed new structure.



Photo 3-1 The excavated area for an additional feature of the proposed alterations to the site in the foreground, and the existing anaerobic digester and associated structures in the background. Taken from the south-east of the site looking west

- 3.8.3 The bund which encloses the application site to the south and east in the most recent application was present at the site, although no grass or tree planting has been done by this time. The bund on the eastern boundary had been terraced into the natural east-west slope.



Photo 3-2 The area of bund terraced into the slope on the north-eastern boundary of the application site. Taken from the north-east of the site looking south

- 3.8.4 Views out of the application site were present primarily to the south, but were limited to the higher ground within the application site where views over the bund were made possible. It is likely that these views will no longer be present once the proposed planting is put in place.
- 3.8.5 Limited views to the west of the application site were possible through the hedgerow boundary, while views to the north were obstructed by a further hedgerow boundary and a dwelling. A gap in the hedgerow either side of Crown Hill allowed for limited views towards Post Hill / Halberton High Street. There were no views of the Grand Western Canal from within the application site.

3.9 Aims & Methodology

- 3.9.1 A settings assessment was undertaken on the Grand Western Canal in order to determine the relationship of the setting of the heritage asset with the application site, and how the features of the most recent application may impact the setting of the asset.
- 3.9.2 The settings assessment was undertaken using information from the Historic England, *Historic Environment Good Practice Advice in Planning on the Settings of Heritage Assets (Historic England 2015)*.
- 3.9.3 The overall level of potential impact upon the setting of the Grand Western Canal will be assessed in line with the Impact Assessment Criteria in **Appendix F**, and a suggested mitigation strategy will be provided where applicable.

3.10 Methodology Limitations

- 3.10.1 No private property beyond the proposed development boundary was entered as a part of the settings assessment, and therefore the assessment was made at ground level, outside of the building.
- 3.10.2 Only the areas closest to the application site were visited as part of this settings assessment.

3.11 Settings Assessment

- 3.11.1 The settings assessment was conducted by Zoe Edwards (Assistant Heritage Consultant; AB Heritage) on the 13th May 2016. The assessment was made from the best possible position with regard to viewpoint, safety, and remaining on public land.

3.12 Step 1 - Identification of Heritage Assets

Mon ID	Name	Designation	Importance (Table A, Appendix F)	Location
MDV1497	Grand Western Canal	Conservation Area	Regional	c. 50m to the east of the application site boundary

Table 3-1 Heritage assets selected for settings assessment

Reasons for Designation

- 3.12.1 While there is currently no readily available Conservation Area Appraisal or Management Plan for the Grand Western Canal, Mid Devon District Council defines Conservation Areas as follows:

'Conservation areas are areas with a special character or quality which should be preserved or enhanced. The special architectural and/or historic nature of the area derives from the cumulative impact of groups of buildings and spaces rather than due to a singular outstanding building.'

'Areas are designated as conservation areas to ensure the character is preserved or enhanced. This does not mean that no change or development can take place, but, where changes do occur, they are appropriate for the context and setting of the area.'

3.13 Step 2 - Assessing whether, how and to what degree these settings make a contribution to the significance of the heritage asset(s)

- 3.13.1 The key attributes of the Grand Western Canal are summarised below and used to assess whether, how, and to what degree the proposed development might be considered to make a contribution to the setting and significance of the Conservation Area.

Key Attributes of the Grand Western Canal

- 3.13.2 The Grand Western Canal Conservation Area represents the historic trade route between Tiverton and the Somerset border. The current use of the Conservation Area is recreational and is fully accessible to the public, where it is safe to use the footpath and waterway. This function will be retained.
- 3.13.3 Views out of the Conservation Area vary along its route but, beyond Tiverton, these primarily consist of a rural landscape and occasional villages.
- 3.13.4 The original setting of the Grand Western Canal has been largely retained, although it has been altered slightly by changes in the villages it passes, and likely also by the construction of new agricultural structures and access bridges for roads and railways across the canal.

3.14 Step 3 - Assessing the Effect of Proposed Development

3.14.1 **Table 3-2** assesses the potential attributes of the development affecting the setting of the Grand Western Canal which are considered proportionate to the purpose of this assessment.

LOCATION AND SITING OF DEVELOPMENT	
Extent	Application site area covers c. 1.7ha
Position in relation to key views	Application site lies on Crown Hill, c. 50m west of the Grand Western Canal at its closest point, and c. 60m west of the closest public access point to the Canal footpath.
FORM AND APPEARANCE OF THE DEVELOPMENT	
Form of development	The proposed development consists of plans to extend the existing site of the anaerobic digester to incorporate addition features and structures, as well as a bund and planting to screen views into the site (see Figure 2).
Prominence, dominance or conspicuousness	The most prominent structure at the application site is the dome of the anaerobic digester which is already present which is topped by a green dome. Views of other existing features were screened in places by natural vegetation screening. Features of the new proposal will not be higher or more dominant than the existing structures.
Seasonal change	Views of the application site may be more prevalent in the winter when screening vegetation is less substantial.
OTHER EFFECTS OF THE DEVELOPMENT	
Noise, vibration, dust etc.	Temporary increase in traffic, noise, vibration and dust during construction works, although this is not considered to be a higher impact than that experienced by the previously approved proposal. Permanent increase in noise is not expected to be substantial. Some increase in traffic may be possible for site access.
Change to general character	The original industrial use of the Canal is no longer present. The proposal is not perceived to alter the existing character of the Conservation Area significantly, nor is it expected to hinder the experience of the asset substantially.
Changes to public access, use or amenity.	There will be no change to the public access of the Conservation Area as a result of the proposed development. No change to the existing use of the Canal is anticipated.
Changes to land use	No change to land use as the proposal is to alter and extend the existing, approved anaerobic digester site.

Table 3-2 Potential attributes of the development affecting the setting of the selected heritage assets

Effect of Proposed Development on the Grand Western Canal

3.14.2 The most prominent point of the application site is the dome of the anaerobic digester which is already present at the site, and was approved under the previous planning application. The dome is bright green in colour and is therefore is prominent in the landscape.

- 3.14.3 There were no views of the application site from the stretch of Canal in closest proximity to the application site, as it was screened by hedgerows (Photo 3-3). Further along the Canal, the application site came into view (Photo 3-4). The view of the application site will become more limited by the proposed bund and vegetation screening.
- 3.14.4 The additional features of the new proposal will not be higher or more dominant than the existing structures and are therefore considered unlikely to cause any additional setting impact to the Conservation Area.



Photo 3-3 The view towards the application site from beneath Crownhill Bridge on the Grand Western Canal, c. 50m east of the application boundary



Photo 3-4 The view towards the application site from c. 300m south-east of the application boundary on the Grand Western Canal footpath

- 3.14.5 The elevation plans of the new proposal (see [Appendix G](#)) also show that the majority of the structures proposed under the previously approved plans will be closer to the existing agricultural buildings, and are therefore less likely to change the long-distance views into the site from the Conservation Area. This assumes that the form and colour of these structures does not differ substantially from the existing agricultural buildings.
- 3.14.6 In addition, the proposal incorporates additional planting in order to limit views of the site from the Conservation Area.
- 3.14.7 Given that the most prominent features at the site are perceived to be those which are already present at the site, and taking into consideration the inclusion of new screening planting, and that views from Conservation Area are interrupted by existing vegetation and hedgerows, the setting impact of the proposed development upon the Conservation Area is considered to be negligible (see Table B, [Appendix F](#)).

Heritage Asset	Location to Site	Visible from Site	Potential for Setting of Heritage Asset to be affected by proposed development
The Grand Western Canal Conservation Area	c. 50m to the east of the application site boundary	Yes	Permanent but Negligible Impact

Table 3-3 Potential for development to affect setting of heritage assets

3.15 Maximising Enhancement and Minimising Harm

- 3.15.1 Maximum advantage can be secured if any effects on the significance of a heritage asset arising from development liable to affect its setting are considered from an early stage in project planning. Early assessment of setting may provide a basis for agreeing the scope and form of development, reducing the potential risk for project delays and redesign at a late stage.
- 3.15.2 In line with the importance of the Grand Western Canal Conservation Area (Regional, Table A, [Appendix F](#)) and the perceived level of setting impact (negligible, Table B, [Appendix F](#)) the significance of effect is anticipated to be 'not significant' (Table C, [Appendix F](#)).

3.16 Making and Documenting the Decision and Monitoring Outcomes

- 3.16.1 The true effect of a development on setting may be difficult to establish from a theoretical perspective. Once the development has been implemented, it may be helpful to review the success of the scheme and to identify any 'lessons learned' to aid with the formulation of mitigation strategies for similar developments in the future.

3.17 Outline Recommendations

- 3.17.1 No further work is recommended regarding the impact on setting. However, as previously discussed, it may be helpful to review the success of the scheme and to identify any 'lessons learned' to aid with the formulation of future mitigation strategies with regard to the assessment of settings.

4 Odour Issues Relating to Proposed Reason for Refusal 3

4.1 Introduction

4.1.1 The following documents have been reviewed as part of this assessment:

Consented planning application - 13/01605/MFUL

- Greener for Life Energy Ltd, Volume 1 Supporting Information February 2014
- Greener for Life Energy Ltd, Volume 2 Process Information November 2013
- Greener for Life Energy Ltd, Volume 3 Environmental Review February 2014
- Odour Management Plan, March 2014
- Planting Plan, September 2013
- Response to post submission questions – 14/02/14
- Response to MDDC Planning Comments – 06/03/14
- Email from Kate Cantwell to Development Control - 23/04/14
- Environment Agency consultation response - 13/01/14
- Environmental Health Response – 18/02/14
- Environmental Health Response – 11/03/14
- MDDC Planning Approval Notification – 10/07/14

Current planning application – 15/01034/MFUL

- Greener for Life Energy Ltd, Design and Access Statement – 29/06/16
- Odour Management Plan, Version 2 September 2015
- Email from Deb Cairns to Development Control – 15/12/15
- Response to questions/further information requests, email Daniel Rance 28/08/15
- Environmental Health Response – 20/07/15
- Environmental Health Response – 24/08/15
- Environmental Health Response – 22/09/15
- Environmental Health Response – 09/11/15
- Planning Committee Officer's Report – 06/04/15

- 4.1.2 In addition to the reviewed information, a copy of the Environmental Permit application (EPR/CB3905KW/A001) was requested by telephone and email from the Environment Agency (EA). At the time of writing this report, the copy of the permit application had not been received. However, in discussions with the EA, it was confirmed that the permit application had not been determined and further information had been requested from the applicant, including information on the odour management plan.
- 4.1.3 A visit to the site and the surrounding area was made on Friday 13th May in order to understand the context of the site in the surrounding area and to confirm the construction operations that were on-going.

4.2 Assessment

Policy

- 4.2.1 Odour comes within the proposed reason for refusal 3, and in particular Policy DM7 Pollution which states that:
- 'Applications for development that risks negatively impacting on the quality of the environment through noise, odour, light, air, water, land and other forms of pollution must be accompanied by a pollution on impact assessment and mitigation scheme where necessary. Development will be permitted where the direct, indirect and cumulative effects of pollution will not have an unacceptable negative impact on health, the natural environment and general amenity.'*
- 4.2.2 In addition, there is a reference to Policy DM7 from Policy DM5, Renewable and Low Carbon Energy. Policy DM22 also refers to the impacts of agricultural developments on the living conditions of local residents being acceptable, and therefore this is also related to Policy DM7.
- 4.2.3 Compliance with Policy DM7 relates to whether or not the development provided an impact assessment and mitigation statement and whether or not the resulting impact (odour) would be unacceptable in terms of general amenity.
- 4.2.4 Both the consented and current applications provided Odour Management Plans which can be regarded as fulfilling the function of an impact assessment and mitigation scheme. The question in terms of odour therefore, is whether or not the resulting impact would be unacceptable in terms of general amenity.

Guidance

- 4.2.5 The Institute of Air Quality Management (IAQM) Guidance on the assessment of odour for planning (Bull et al, 2014) provides a framework to consider the risk of odour effects in a planning context. By applying the guidance it is possible to ascertain the significance of the odour effect which can be taken into account in terms of the overall planning balance.
- 4.2.6 The Defra guidance: Odour Guidance for Local Authorities (Defra, 2010) provides information on the regulatory framework for odour control. Where the generation of odours from a development can be readily anticipated, the local authority will need evidence that odour emissions will be adequately controlled to prevent any significant loss of amenity to neighbouring sensitive land uses.
- 4.2.7 The Defra guidance confirms that the role of the pollution control regime, i.e. Environmental Permitting, is to ensure that emissions are controlled so that environmental impacts are acceptable. It is not the purpose of the planning system to control releases where these would otherwise be controlled via permitting. Rather, the planning system needs to concentrate on whether the development is an acceptable use of the land, and the impacts of those uses, rather than the control of the processes or emissions themselves.

- 4.2.8 In terms of the proposed development, it must be assumed at the planning stage that the EA will exercise its responsibilities in terms of Environmental Permitting, and that the operations will be controlled in accordance with the methodologies stated in the permit application.
- 4.2.9 The EA Guidance: H4 Odour Management – how to comply with your environmental permit provides information on how odour will be regulated. In particular, the guidance makes it clear that the EA would not grant a permit if it considered that ‘unreasonable odour pollution is being or is likely to be caused’. Where it is satisfied that unreasonable odour pollution is unlikely, then the adequateness of control measures would be reviewed to ensure that odour is minimised. The resulting permit condition would likely be of the form:

Emissions from the activities shall be free from odour at levels likely to cause pollution outside the site, as perceived by an authorised officer of the EA, unless the operator has used appropriate measures, including, but not limited to, those specified in an approved odour management plan, to prevent or where that is not practicable to minimise the odour.

- 4.2.10 Overall therefore, the Environmental Permitting regime should ensure that were a permit to be granted, the resulting odour would not be unacceptable to residential receptors and that operations would be regulated to ensure that that remained the case through the life of the development. Nevertheless, the planning regime still needs to ascertain if the impact on residential amenity would be acceptable or not.

Odour Generating Activities

- 4.2.11 From a review of the information provided with both the consented and current planning applications, it is considered that the main sources of odour from the process have been adequately described. These are likely to be:
- Receipt of feedstock into the plant;
 - The silage clamp;
 - Loading of material into the digester;
 - Removal of digestate, drying of solid digestate and land spreading of solid and liquid.
- 4.2.12 Liquid feedstock is delivered to the site in a sealed tanker and discharged to the liquid buffer storage tank via sealed pipework. There is therefore only a low potential for odour to be generated from this activity.
- 4.2.13 Solid feedstock such as maize silage, grass silage and beet is delivered to the site in tractors and trailers and then stored in the silage clamps. The process of making silage requires the organic materials to be covered. At the time of the site visit there was maize and grass stored in the silage clamps (covered), and an odour from them could be detected in the immediate vicinity of the clamps. The silage is removed from the clamps by tractor and placed into the solids feeder of the digester. The process of loading the feeder with the silage would expose one end of the silage clamp and this would likely to release odour during the period of the loading operation.
- 4.2.14 Cow slurry, farmyard and poultry manure would be loaded directly into the solids feeder of the digester when received on site. There would be odour released from this process as the material is dropped into the top of the solids feeder.
- 4.2.15 The solid digestate is removed from the digester and falls into a concrete bay. The digestate is transferred by digger to the inlet of the dryer where it is dried. Whilst the digestate will have a relatively low odour potential compared to the feedstock materials, there could be some odour realised from the transfer of the odour to the drier, and its subsequent removal.

- 4.2.16 Liquid and solid digestate are pumped from the site and injected into the land to act as a soil improver. The odour potential of the application of the digestate to land will be lower than the current practice of applying farmyard slurry and manure directly to land.

Differences in Odour Potential

- 4.2.17 Both applications provide the same summary of material inputs into the process which equates to 13,925 tonnes per annum. However, information provided by the applicant indicates that the Environmental Permit application has been submitted for 14,375 tonnes of feedstock per annum (an increase of approximately 3%). Overall however, it is considered that there is no difference in the odour potential of the materials receipt operations between the two applications.
- 4.2.18 The overall volume of the silage clamps is slightly lower in the current application compared to the consented. However, the two silage clamps are longer and thinner than the original four clamps, and the end of the clamps is closer by approximately 40m to the nearest residential receptors to the site. The current application will therefore have a slight increase in odour potential from this activity compared to the consented application.
- 4.2.19 The only other change is the incorporation of a drying process. The drying process will involve handling of the digestate, and the drying process itself is likely to release odour. The applicants argue that the digestate is virtually odourless, and it is likely that the digestate will have a significantly lower odour potential than the feedstock material due to the process of anaerobic digestion. Overall therefore, there may be a slight increase in the odour released from the site due to the additional handling of the solid digestate material.

Assessment of Odour Potential of the Activities

- 4.2.20 The IAQM guidance provides a methodology to qualitatively assess the effect of odour from an activity. The methodology requires an assessment to be made of the odour source strength of the activity (large, medium or small); the pathway effectiveness (highly effective, moderately effective and ineffective) and the sensitivity of the receptor (high, medium or low). By combining the odour source strength and pathway effectiveness, the risk of odour exposure is determined. Combining the risk of odour exposure with the receptor sensitivity gives an assessment of the magnitude of the odour effect. Table 4-1 provides a summary of the odour effect descriptors.

Risk of Odour Exposure	Receptor Sensitivity		
	Low	Medium	High
High	Slight adverse	Moderate adverse	Substantial adverse
Medium	Negligible	Slight adverse	Moderate adverse
Low	Negligible	Negligible	Slight adverse
Negligible	Negligible	Negligible	Negligible

Table 4-1 IAQM Magnitude of Odour Effect Descriptors (Table 10 of the guidance)

- 4.2.21 In terms of the IAQM guidance, the odour source is considered to be of medium source potential; it is not a large site in Environmental Permitting terms and the odour from the process is likely to be moderately offensive.

- 4.2.22 The silage clamps are approximately 75m from the nearest residential receptors at their closest point. A wind rose for Exeter airport from the period 2001 – 2010 is provided in **Appendix H**. This indicates that winds from the site will blow towards the nearest residential receptors for approximately 9% of the year. Taking into account the distance and wind distribution, it is considered that the pathway for odour between the source and the receptors is likely to be moderately effective, i.e. the receptors are local to the source with a strong component of the wind blowing from the site to the receptors.
- 4.2.23 Combining a medium source with a moderately effective pathway leads to a low odour potential for the site. The receptors would be regarded as high sensitive receptors and therefore in accordance with Table 4-1, the resulting odour effect is slight adverse. This essentially means that there is likely to be some odour generated from the site and perceived by the receptors, but that the odour is unlikely to be sufficient to constitute a significant environmental effect.

4.3 Conclusions

- 4.3.1 Information within the consented and current planning application documents describes the likely odour from the process in sufficient detail for an assessment of the likely effect on amenity to be made.
- 4.3.2 Controls in place through the Environmental Permitting process should mean that a significant effect on residential amenity is avoided (assuming that a permit for the operation is granted).
- 4.3.3 There is only a minor difference in the likely odour generation potential of the consented and current planning applications.
- 4.3.4 There is likely to be 'slight adverse' effect on residential amenity as a result of odour from the operations of the site. This is unlikely to constitute a significant environmental effect and therefore would not be classed as an unacceptable negative impact on amenity. The development would therefore be in accordance with policy DM7 and by inference, DM5 and DM22 of the Local Plan Part 3 Development Management Policies.
- 4.3.5 It is unlikely that the impact on residential amenity as a result of odour from the site would justify refusal of the planning application.

5 Noise Issues Relating to Proposed Reason for Refusal 3

5.1 Introduction

- 5.1.1 This chapter is written following a review of the information presented in the Noise Assessments undertaken by ACIA as part of the consented and current planning applications. The review is undertaken on the basis that the data / proposals presented in the documents are accepted as face value, as written and presented. No further assessment has been undertaken.
- 5.1.2 The documents reviewed are the noise assessment part of the planning application 13/01605/MFUL "*Comments on probable noise emissions*" and the noise assessments (Report number 2697.02 and 2697.03) and the supplementary noise information additional (Report number 2697.04) part of the planning application 15/01034/MFUL.
- 5.1.3 It is understood from the documents reviewed that the assessment criterion agreed with MDDC is for plant noise to not exceed the background noise by more than 5 dB at nearby dwellings, in accordance with BS4142:1999.

5.2 Assessment for Consented Application 13/01605/MFUL

- 5.2.1 The assessment, "*Comments on probable noise emissions*", was a high level assessment. It predicted the sound pressure level of the CHP plant to be around 25 dBA, before any screening, at the nearest noise sensitive receptor said to be located 163 m from the CHP location.
- 5.2.2 It further predicts that the sound pressure level of the CHP plant when including screening from farm buildings is no more than 19 dBA at the same nearest noise sensitive receptor 163 metres away.
- 5.2.3 It therefore concluded that the noise levels arising from the CHP plant would be considerably below the pre-existing background noise levels and would therefore not be detrimental to the amenity of the nearest local residents.
- 5.2.4 The assessment also pointed out that noise from vehicular movements on site would be no more than 40 to 45 dBA at the nearest properties. This would be comparable and indistinguishable from conventional agricultural activities already taking place on site. The operation would be limited to 7 am to 6 pm daily outside of harvest time.
- 5.2.5 Noise is also expected to remain at acceptable levels throughout the construction period.

5.3 Environmental Noise Assessment (reports 2697.02, .03 and .04) for Consented Application 15/01034/MFUL

- 5.3.1 The revised and updated reports go into a lot more detail in relation to the potential impact of the AD and associated CHP and dryer equipment on the nearby noise sensitive receptors. Calculations are undertaken for the different parts of the proposed development.

Methodology

- 5.3.2 The construction noise has been assessed with reference to BS5228-1:2009 Annex E, which states that the daytime noise levels should be below 65 dB $L_{Aeq,1h}$ to avoid a significant impact.
- 5.3.3 The plant noise emissions have been assessed to ensure that they do not exceed the background sound levels by more than 5 dB at the nearest noise sensitive residential receptor. It should be noted that the background sound level was taken as the minimum 5 minute value, in accordance with BS4142:1999. The latest version of the standard, updated in 2014, requires the assessment to be undertaken against a typical 15 minute value. This would make for a less stringent criterion.

Assessment

- 5.3.4 The background sound level is stated to be at their lowest during the small hours of the morning (i.e. still under what is defined as night time). The background sound level is measured to be 23 dBA.
- 5.3.5 Plant noise, which has the potential to be continuous even during the night-time, has been calculated to be 22 dBA at the worst affected residential receptor (Lisieux), which is below the proposed night-time criterion.
- 5.3.6 Mobile plant and vehicles on site will only operate for approximately 10 minutes at a time during normal operations. The impact has been calculated as 45 dB $L_{Aeq,1h}$ at the worst affected residential receptor, which is below the proposed daytime criterion.
- 5.3.7 During peak periods of activities, 12 non-consecutive days in the year, the mobile plant and vehicles on site are expected to operate continuously during the daytime. The impact has been calculated as 53 dB $L_{Aeq,1h}$ at the worst affected residential receptor, which would be just above the proposed daytime criterion.
- 5.3.8 It is also understood that there will be fewer vehicles entering and leaving site once the development is operational rather than during construction.
- 5.3.9 The construction noise impact has been calculated as 61 dB $L_{Aeq,1h}$ at the worst affected noise sensitive receptor (New House), which is below the proposed daytime criterion. A temporal element has also been included, pointing out that construction activities should only occur between 0800 and 1900 hours during weekdays and between 0800 and 1300 on Saturdays.

5.4 Review

- 5.4.1 The overall assessment methodology and the use of BS5228 to assess the potential impact from construction noise and the use of BS4142 to assess the potential impact from plant noise are accepted.
- 5.4.2 As explained above, the data / proposals presented in the documents reviewed are accepted as face value, as written and presented. However, they are within the range of noise levels that would be expected of such plant/activities.
- 5.4.3 The calculations undertaken as part of the assessment have been reviewed. The calculations relating to distance attenuation, attenuation due to screening, periods of activities and cumulative impact of plant operating concurrently are accepted.

5.5 Conclusion

- 5.5.1 Even if the conclusions of the noise assessments in the two planning applications (13/01605/MFUL and 15/01034/MFUL) are similar (i.e. no significant noise impact), they are different in the amount of detail the assessment goes into. The methodology of the latest assessment is a lot more thorough, with calculations of the noise impact of all activities occurring on site.
- 5.5.2 It is our view that an appropriate methodology and standards have been used for the assessment. We have also found the calculations, as part of the assessment, to be correct.
- 5.5.3 Based on the data presented in the documents and the reviews of said documents, we would agree with the conclusions that the impacts from the different elements of the proposal would meet the relevant criteria and no further mitigation should be required.

6 Transport & Highways Issues Relating to Proposed Reasons for Refusal 4 a/b

6.1 Introduction

6.1.1 The following documents have been reviewed as part of this assessment:

- Transport Statement (TS) dated October 2013 prepared by Hydrock supporting the consented application 13/01605/MFUL
- Addendum to Transport Statement (ATS) dated January 2016 prepared by E4environment supporting the current application 15/01035/MFUL
- Various highway consultation responses prepared by Devon County Council (DCC) in response to both planning applications

6.1.2 It should be noted that this assessment does not consider whether the principle of the development is appropriate in this location. This has already been established through the consented application. DCC as the Local Highway Authority has already agreed that the traffic impact of the consented development is acceptable subject to the provision of a new passing bay on Crown Hill to the west of the site access.

6.1.3 This report considers if the changes to the site layout and additional items within the site which seek to vary the consented scheme are acceptable. It is of note however that DCC has concluded that it has no objection to the current application due to the transport situation being unaffected by the scheme variations.

6.1.4 Given this context, the remit of this assessment is to advise whether the proposals to vary the consented scheme are likely to cause impacts that are greater than under the consented scheme, and will result in an unacceptable impact in terms of road safety and/or operation of the network.

6.1.5 This assessment has been informed by a site visit that was conducted on Friday 6th May 2016 by a member of the PBA Transport team. This allowed the staff member to observe the condition and operation of the existing road network in the vicinity of the site. Spot speed surveys were also undertaken at various locations on the highway network around the site.

6.1.6 A review of the documentation combined with the outcomes of the site visit has identified the following transport / highway related issues that will be considered further within the remainder of this chapter:

- Trip generation forecasts
- Layout of the site access junction
- Provision of a passing bay on Crown Hill to the west of the site access
- Layout of the Post Hill / Crown Hill priority T junction

6.1.7 The chapter provides an overall conclusion for the assessment that has been undertaken and relates this to the proposed transport based reasons for refusal proposed by Committee which are:

4 (a) The submitted transport statement is not considered sufficiently up to date and does not address traffic generation associated with the newly erected livestock building on the farm holding. It is the view of the Local Planning Authority that this will impact on the ability of the Anaerobic Digester installation to be able to adequately function without additional and unacceptable traffic generation to the detriment of local amenities and character, contrary to policies COR2 and COR5 of the Mid Devon Core Strategy 2007 (Local Plan Part 1), policies DM2, DM5 and DM22 of the Local Plan Part 3 Development Management Policies and the National Planning Policy Framework.

Or

4 (b) It is the view of the Local Planning Authority that it has not been satisfactorily demonstrated that the proposed Anaerobic Digester when considered in conjunction with other approved development for livestock buildings, will not result in additional and unacceptable traffic generation to the detriment of local amenities and character, contrary to policies COR2 and COR5 of the Mid Devon Core Strategy 2007 (Local Plan Part 1), policies DM2, DM5 and DM22 of the Local Plan Part 3 Development Management Policies and the National Planning Policy Framework.

6.2 Trip Generation

- 6.2.1 The trip generation forecasts prepared by Hydrock and E4environment included in the TS and ATS have been calculated using a first principles methodology which we assume has been based on information provided by the applicant. This approach combined with the fairly unique nature of the proposed development means it is difficult for PBA to confirm using usual means that the trip generation forecasts and the underlying assumptions are reasonable and robust.
- 6.2.2 We have reviewed the methodology adopted through review of previous assessments and an understanding of how these types of development generally operate.

Existing Trip Generation

- 6.2.3 The TS supporting the consented development states that the existing agricultural element of the business at Red Linhay is predominantly arable farming comprising in the main of maize/corn production which is then exported off the farm. All agricultural practices are understood to take place on the site at Crown Hill which is stated to generate the following volume of trips in the existing scenario:
- Slurry, compost, chicken manure, fertiliser and farmyard manure transported to the site – 809 loads annually.
 - Silage, maize, wheat and straw leaving the site – 449 loads annually.
 - Averaged over the year this represents approximately 4 loads (8 vehicle movements) per day based on a six day working week across the year.

Consented Trip Generation

- 6.2.4 In comparison, the consented development is anticipated to reduce the number of trips generated below levels in the existing scenario in the following ways:
- The AD plant will utilise crops (feedstock) produced by Red Linhay which would otherwise be exported off site.
 - The feedstock provided by Red Linhay will be transported directly to the AD plant via internal farm tracks rather than public roads.

- Following processing, the majority of the digestate will then be pumped onto Red Linhay land, consequently reducing the number of deliveries of manure and fertiliser to the site via public roads.
- 6.2.5 The trip generation figures for the consented development scenario are set out in the TS and below:
- Slurry and manure transported to the site – 300 loads annually.
 - Grass, maize, silage and beet loads transported by public roads to the site – 339 loads annually.
 - Digestate transported by public roads off the site – 145 loads annually.
 - Averaged over the year this represents approximately 3 loads (6 vehicle movements) per day based on a six day working week across the year.
- 6.2.6 It can be seen that the consented development is forecast to reduce the number of loads generated by the Crown Hill site from an average of 4 loads per day (8 vehicle movements) to 3 loads per day (6 vehicle movements).
- 6.2.7 The more recently prepared ATS report supporting the current application appears to have been produced in response to the transport related concerns raised by Members. It does this by expanding upon the trip generation assessment set out in the earlier TS by taking account of the two agricultural livestock buildings that have been constructed on the site since the original TS was produced.
- 6.2.8 The ATS states that the buildings house 71 cattle in total, of which only 31 require grazing. The remaining 40 cattle are intensive beef cattle which are not grazed at any time of the year. Feed for the intensive beef cattle is imported from other parts of the farm via farm tracks rather than public roads.
- 6.2.9 It also confirms that the grazing land for the cattle totalling 20 acres was previously identified in the TS to be used for AD plant feedstock. This means that a new area of Red Linhay totalling 26 acres will provide the feedstock for the AD plant instead, with the resulting crops being delivered to the site on farm track and not via public roads.
- 6.2.10 The ATS report concludes that the two agricultural buildings and substituted AD cropping area is forecast to have no impact on the local road network as the crop will be transported by farm track and the digestate produced will be directly pumped to the land to act as fertiliser.

Proposed Trip Generation

- 6.2.11 The ATS report demonstrates that the proposed changes to the consented development are forecast to have no impact on the number of vehicle movements generated by the Crown Hill site. Therefore, the proposed development is still forecast to reduce the number of loads generated by the Crown Hill site from an average of 4 loads per day (8 vehicle movements) to 3 loads per day (6 vehicle movements).

Conclusion

- 6.2.12 In light of the previous comments, PBA considers the trip generation assessments included in the TS and ATS reports to be robust and reasonable based on the checks that have been possible. It is evident that the assessment does take account of two agricultural buildings that have been constructed on the site in recent years which was identified as a concern for Members.

- 6.2.13 The proposed changes to the consented development are forecast to have no impact on the number of vehicle movements generated by the site. Therefore, the proposed development is still forecast to reduce the number of loads generated by the Crown Hill site from an average of 4 loads per day (8 vehicle movements) to 3 loads per day (6 vehicle movements).
- 6.2.14 It is noted that the trip generation assessment has focussed on average figures across a year and that the trip generation could be significantly greater during harvest season than at other times of the year. Notwithstanding this point, this is likely to be the case for both the existing development and consented / proposed development, and is therefore not considered to undermine the assessment presented.

6.3 Site Access Junction

- 6.3.1 The consented application proposed that access into the AD plant would be provided via the existing farm entrance located on Crown Hill. Site observations suggest that works to improve the access have taken place because it appears to have been widened and industrial gates added resulting in a more formalised arrangement (see **Photo 6-1**).



Photo 6-1 Site access junction

- 6.3.2 Drawing 13425/T03 included in the TS (and included in **Appendix I**) supporting the consented application suggests that the vegetation immediately to the east along the Crown Hill boundary will be cut back so that visibility splays from the minor arm in both directions meet 2.4m x 33m which is the recommended distance specified in the Manual for Streets guidance document.

- 6.3.3 At present this work does not appear to have been undertaken as visibility to the east from the minor arm is in the region of 10-15m when measured to the nearside kerb rather than 33m identified by DCC. In order to achieve the desired splay, the vegetation would need to be significantly cut further back or more likely removed along a small stretch. PBA however consider that significantly improving the visibility splay to the east of the access should not actually be necessary. The provision of better visibility for vehicles emerging from the site is intended to create a safer environment for road users, but we consider it may have the opposite effect leading to greater potential for collisions. We have formed this view because the removal of a significant part of the existing hedgerow in this location is likely to dramatically change the character of Crown Hill in the vicinity of the site access as it would create a greater sense of openness to drivers. This in turn could lead to increased speeds along the stretch of road onto which the access fronts.
- 6.3.4 It should be noted that the access currently provided at the site appears to have been more extensively modified than stated in the approved TS. The TS only refers to trimming back an existing hedgerow located immediately to the east of the access to improve visibility in this location, however on site observations suggest that vegetation to the west has been removed in order to create a significantly wider access. If our understanding of this issue is correct, it does not appear that the applicant is seeking for these modifications to the access to be approved under the current application.

6.4 Passing Bay on Crown Hill

- 6.4.1 DCC required the provision of an additional passing opportunity for vehicles on Crown Hill at the bend to the west of the site access as part of the consented development for the following reasons:
- To maintain safe entry and exit to the existing field gate at this location
 - To provide adequate inter-visibility between passing opportunities between the site, the bend in Crown Hill to the west and the priority T junction with Post Hill
 - To mitigate the potential increase in traffic using this part of the road network during harvest season and / or if the site generates more traffic than has been forecasted
- 6.4.2 It is noted that DCC correspondence confirms that the referred passing bay has already been constructed. There are two drawings included in [Appendix J](#) showing what we understand to be the approved design of the passing bay, and these suggest that full surface course reinstatement would be undertaken extending from the corner in both directions with a kerbed lay-by. However, [Photos 6-2 & 6-3](#) below were taken at the recent site visit and suggest that these works have not yet been completed and that the carriageway is in poor condition, with the road construction broken down at the edges of the carriageway.



Photos 6-2 & 6-3

Existing condition of corner on Crown Hill, west of the site access

- 6.4.3 PBA recommends that at the edges of the highway, full reconstruction will be necessary to obtain an adequate width of satisfactory road surface that will allow vehicles to pass. Furthermore, it is suggested that where only reinstatement of the surface course is proposed, all surface course material is stripped back prior to resurfacing to ensure an adequate stiffness of construction. On-site observations suggest that previously new surface course layers have been laid without the previous layer being removed. These works should be completed prior to the AD plant becoming operational.

6.5 Post Hill / Crown Hill Junction

- 6.5.1 Site observations demonstrate that visibility splays along Post Hill of approximately 25 to 30m ('y' distance) are achievable at an 'X' distance of approximately 2.4m for vehicles emerging from Crown Hill (see [Photos 6-4 & 6-5](#)).



Photos 6-4 & 6-5

Existing visibility from Crown Hill along Post Hill (Left – looking west; right – looking east)

- 6.5.2 Spot speed measurements undertaken at the recent site visit demonstrated 85th percentile speeds of approximately 40 mph for vehicles travelling in both directions along Post Hill. Based on the speed readings obtained, Design Manual for Roads and Bridges standards stipulate that visibility splays achieving 120m 'y' distance should be provided in this location. On this basis, the existing junction is considered to be substandard in visibility splay terms.
- 6.5.3 Despite the junction providing substandard visibility splays, we note that DCC concluded that the consented development would not be required to deliver improvements at this location. This is on the basis that the consented development would not lead to an increase in traffic movements at the junction and there are no apparent existing safety concerns at this location further to the applicant's review of Personal Injury Accident data in the TS.
- 6.5.4 PBA consider that the proposed development being considered under the current application should not be required to deliver improvements at this junction for the following reasons:
- A review of Crashmap data suggests that there have been no incidents at or within the immediate vicinity of this junction between 2012 (the end date of the analysis presented in the TS) and the end of 2014 (latest data available).
 - The proposed development is not anticipated to generate additional trips over and above the consented level.

6.6 Conclusion

- 6.6.1 Further to our review of the documentation supporting the consented and current applications and having recently undertaken a site visit, PBA has concluded the following in relation to transport / highway matters:
- PBA considers the trip generation assessments included in the TS and ATS reports to be robust and reasonable based on the checks that have been possible. It is evident that the assessment does take account of two agricultural buildings that have been constructed on the site in recent years which was identified as a concern for Members.
 - The proposed changes to the consented development are forecast to have no impact on the number of vehicle movements generated by the site. Therefore, the proposed development is still forecast to reduce the number of loads generated by the Crown Hill site from an average of 4 loads per day (8 vehicle movements) in the existing scenario to 3 loads per day (6 vehicle movements).
 - It is noted that the trip generation assessment has focussed on average figures across a year and that the trip generation could be significantly greater during harvest season than at other times of the year. Notwithstanding this point, this is likely to be the case for both the existing development and consented / proposed development, and is therefore not considered to undermine the assessment presented.
 - It is considered that significantly improving the visibility splay to the east of the access to 2.4m x 33m should not be necessary. The provision of better visibility for vehicles emerging from the site is intended to create a safer environment for road users, but we consider it may have the opposite effect leading to greater potential for collisions. Removal of a significant part of the existing hedgerow in this location is likely to dramatically change the character of Crown Hill as it would create a greater sense of openness to drivers in the vicinity of the site access. This in turn could lead to increased vehicle speeds along the stretch of road onto which the access fronts.

- It is noted that correspondence from DCC confirms that the proposed passing bay on Crown Hill has already been constructed. However, site observations suggest that these works have not yet been completed and that the carriageway is in poor condition, with the road construction broken down at the edges of the carriageway. PBA recommends that at the edges of the highway, full reconstruction will be necessary to obtain an adequate width of satisfactory road surface that will allow vehicles to pass. These works should be completed prior to the AD plant becoming operational.
- The priority T junction between Crown Hill and Post Hill is considered to provide substandard visibility splays in both directions along Post Hill from the minor arm. However, we note that DCC concluded that the consented development would not be required to deliver improvements at this location. PBA considers that the proposed development being considered under the current application should not be required to deliver improvements at this junction.

6.6.2 In overall conclusion, the development proposed under the current planning application is not anticipated to lead to transport or highway impacts (in terms of road safety and / or operation of the network) that are greater than for the consented development.

6.6.3 On this basis it is considered unlikely that the development would have a detrimental impact on the local amenity and character as referred in the local policies specified in the potential reasons for refusal 4 a/b.

7 Summary & Conclusion

7.1 Summary

- 7.1.1 This report comprises a technical appraisal of the proposed reasons for refusal for an Anaerobic Digester plant at Red Linhay in Halberton, Tiverton. The findings provide evidence to support one of the four reasons for refusal, based on landscape character and visual amenity.

7.2 Landscape and Visual Issues

- 7.2.1 The landscape and visual appraisal points to several critical areas of concern which could constitute a reason for refusal, as follows;
- The mitigation scheme for the original application was not well designed and for the new application it has been extended into a more open and more widely visible location, where it causes harm.
 - The original LIVA did not make clear the views from the canal or the reflective nature or inappropriate colour of the dome. With the benefit of this information, the scheme which is currently under construction is considered to cause harm.
 - The scheme as now proposed fails to accord with policy set out in the Core Strategy (COR2, COR5, DM2 and DM22), although only in very specific areas.

7.3 Remaining Issues

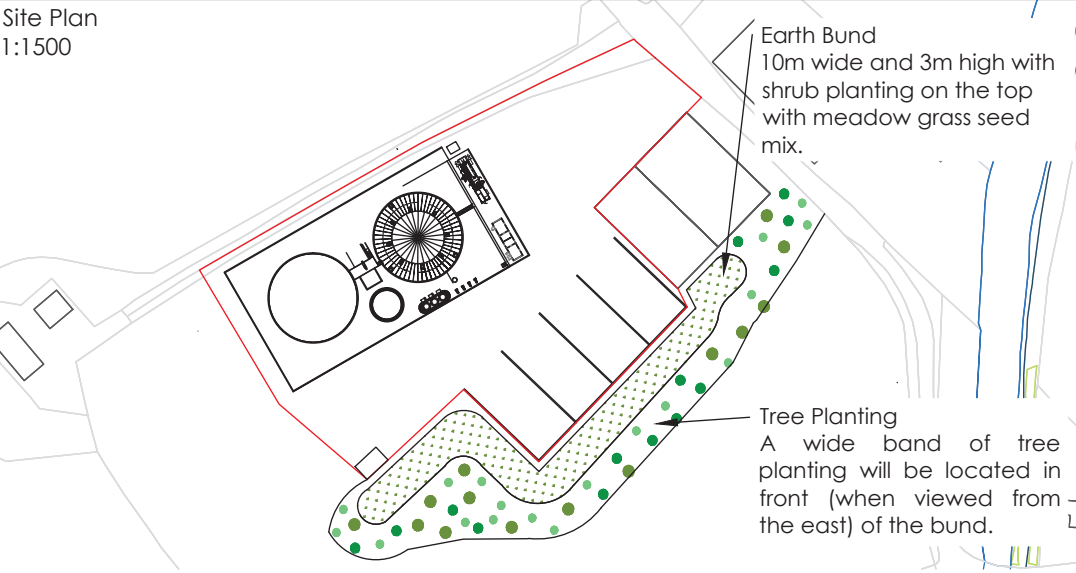
- 7.3.1 The other three proposed reasons for refusal assessed in this report are not considered to constitute a reason for refusal as summarised in [Table 7-1](#).

Reason	PBA Appraisal
Heritage – proximity to the Grand Western Canal	The proposal is not perceived to alter the existing character of the Conservation Area significantly, nor is it expected to hinder the experience of the asset substantially.
Odour and Noise	There is no significant effect on residential amenity from odour and there is only a slight difference between the original and revised planning applications. The noise impact has been correctly assessed and meets the relevant criteria with no further mitigation required.
Transport	The method of assessment is robust and the development proposed under the current planning application is unlikely to cause transport or highway impacts that are greater than for the consented development. It is considered unlikely that the development would have a detrimental impact on the local amenity and character as referred in the local policies specified in the potential reasons for refusal 4 a/b.

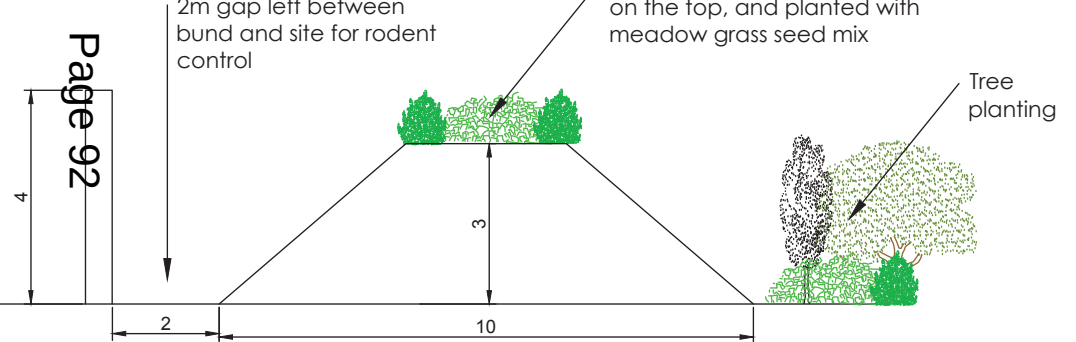
Table 7-1 Summary of areas where there are considered to be no reasons for refusal

Appendices

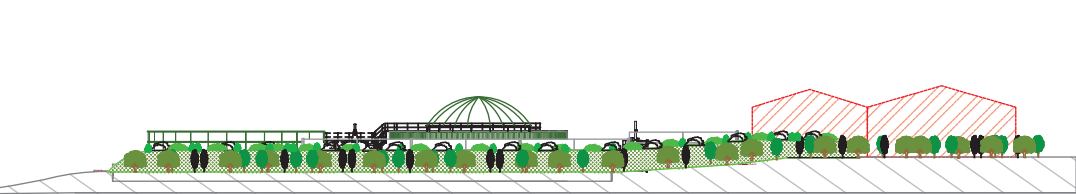
Appendix A



Cross Section
Scale: 1 100



East Elevation
Scale: 1 750



Hedge/Shrub Planting

Species	Height	Size	Type
<i>Crataegus monogyna</i> (Hawthorn)	40-60cm	1+1	Bare
<i>Prunus spinosa</i> (Blackthorn)			
<i>Corylus avellana</i> (Hazel)			

To be planted with 4-6 plants per metre in double staggered rows.

Tree Planting

Species	Density	Size	Type
<i>Sorbus aucuparia</i> (Rowan)	40%	1+1	Bare
<i>Acer campestre</i> (Field Maple)	30%		
<i>Quercus robur</i> (Pedunculate Oak)	30%		

Tree planting would be organised in 3 metres interval spacing. Ideally whips (40 - 90cm in height) that are locally sourced

Proposed Planting

An earth bund is proposed to screen views from the east, the bund will be 3m high. This bund will be planted with shrub species as indicated in the Planting table above. These species have been recommended within the Ecology report and are found within the sites existing hedgerows. The bund will also be planted with meadow grass seed mix. Trees will be planted in front of the bund, the Ecology report recommends *Fraxinus excelsior* (Ash) however at the time of publication there is a restriction of the movement and use of Ash trees. *Sorbus aucuparia* (Rowan) have been chosen as an alternative. However should the restrictions have been lifted at the time of planting then *Fraxinus excelsior* will be used. Understory planting should consist of the same shrub species used for the bund planting as indicated above.

Planting Phases

Before planting begins, areas will be removed of any rubbish, debris and unwanted existing vegetation. Some healthy and native plants that are to be removed will be kept if possible to become part of the proposed planting scheme. New vegetation should be planted during the dormant season between October and March, if construction does not finish until Spring then planting will not be able to be carried out until the following October at the earliest. The planting scheme includes a mixture of native species local to the area. Tree planting will be organised in 3 metres interval spacing. Ideally whips (40 - 90cm in height) will be used as these will establish quickly and thrive. Shrub plants will be planted in double staggered rows with 4-6 plants per metre. Local specimens are recommended as they will establish faster having become accustomed to the climate.

Management

Areas designated for landscaping will not be used during or as part of the construction process. During the early years light regular trimming during the autumn will encourage dense and bushy growth. Mulch placed immediately after planting will reduce the amount of weeds and will help retain soil moisture. The planting will be inspected regularly during the first summer following planting. If any plant failures are identified these will be removed and replaced during the next dormant season. To protect young plants from damage they will be protected using plant guards such as clear spiral guards and shrub shelters. If necessary a rabbit-proof fence will be installed around the site. Trees will be managed to avoid conflict within site usage - they will not be planted too close to areas where damage could occur to the root ball.

Management Objectives

The management objective of this landscaping specification is to provide screening and improve the visual amenity of the site particularly for views from the East. This will be done by planting trees and shrubs to act as screens for reduced visual impact.

Aftercare and Maintenance

The aftercare of the vegetation is planned for five years after planting. Within the first year the new planting will be inspected regularly during the first summer following planting. Plant failures will need to be replaced during the next dormant season. Weeds will be removed (by hand or chemically) and during the first 5 years the planting will be regularly inspected.

Figure:

Planting Specification for a screening bund

Drawing Number: WIN01_Redlinhay_PP_05

Scale*: Various

Papersize: A3

Drawn by: ESG
Date: 9th June 2014
Updated: 16th June 2014

Planting shown is representative of
approximately 3 years growth

Project:

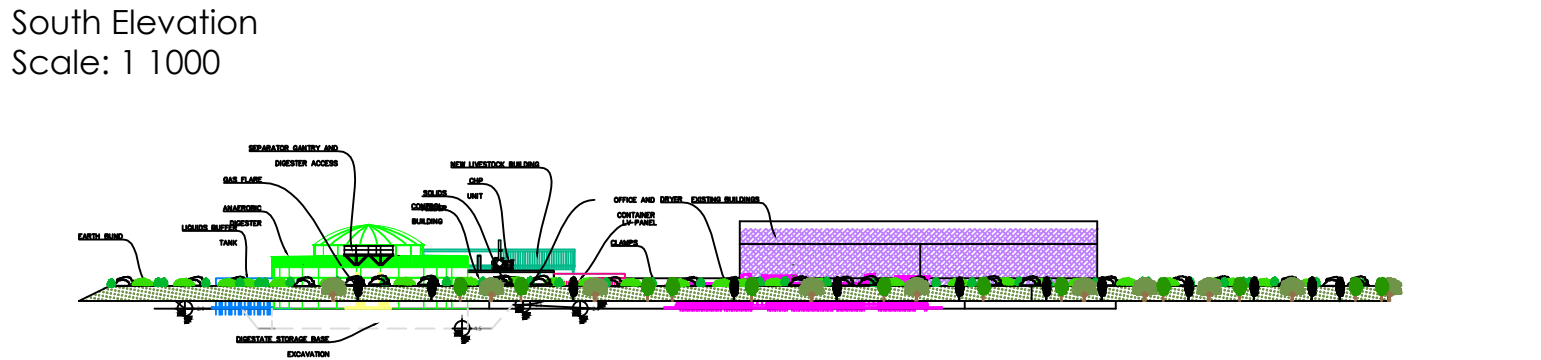
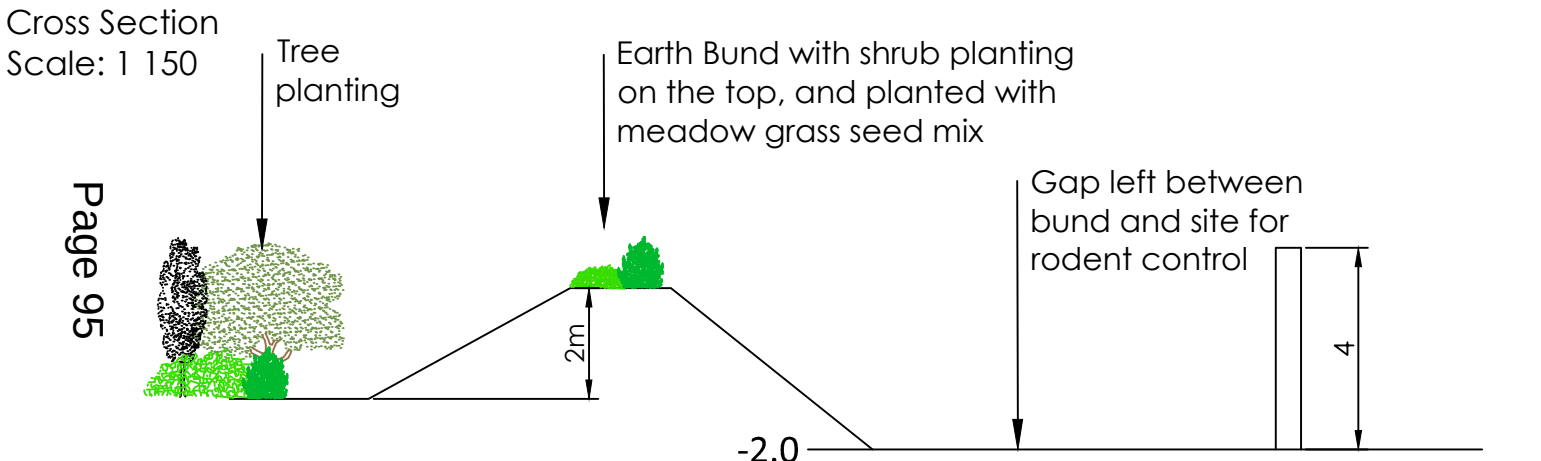
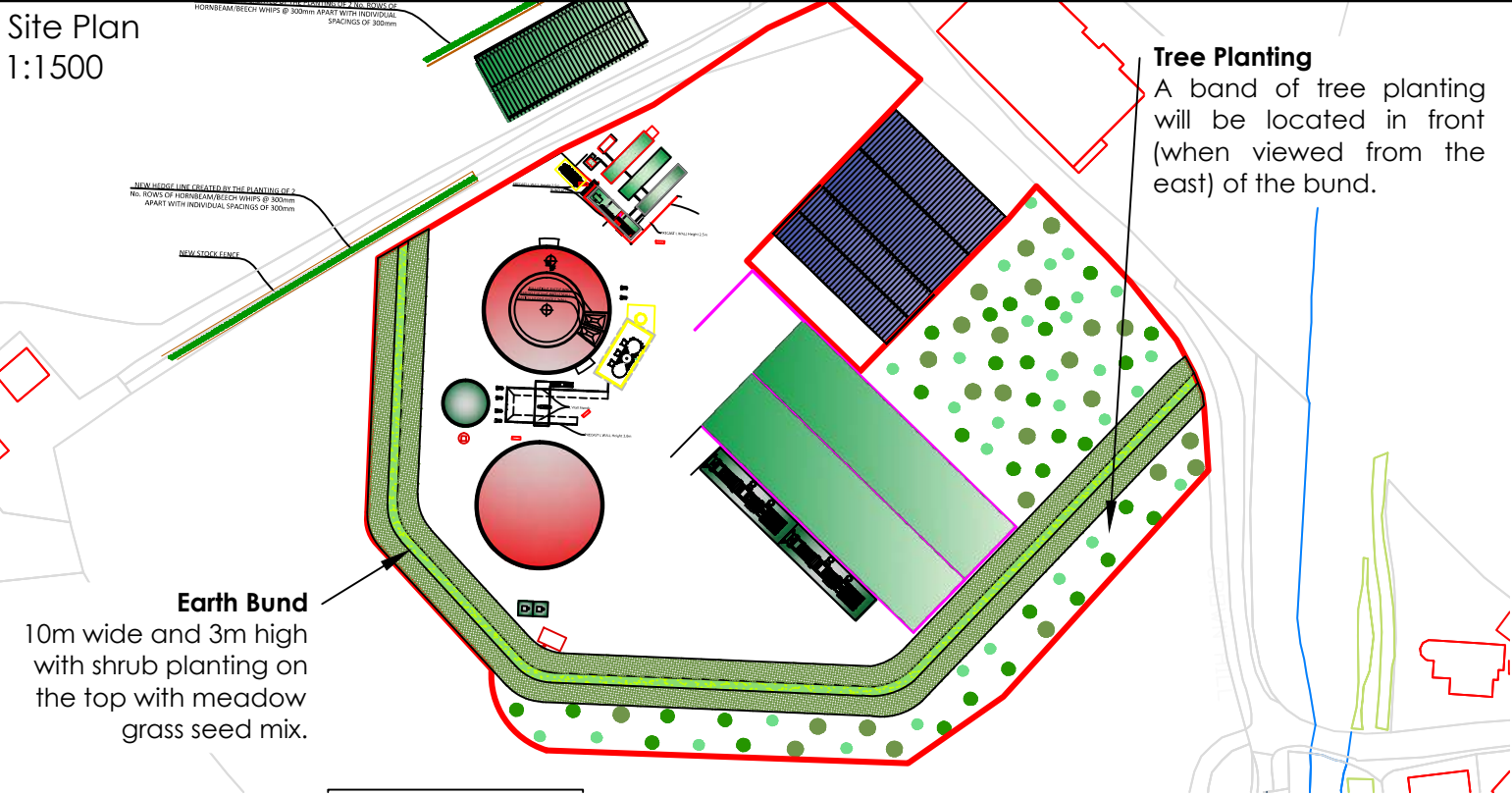
Redlinhay, Crown Hill

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Appendix B



Hedge/Shrub Planting			
Species	Height	Size	Type
<i>Crataegus monogyna</i> (Hawthorn)	40-60cm	1+1	Bare
<i>Prunus spinosa</i> (Blackthorn)			
<i>Corylus avellana</i> (Hazel)			
To be planted with 4-6 plants per metre in double staggered rows.			
Tree Planting			
Species	Density	Size	Type
<i>Sorbus aucuparia</i> (Rowan)	40%	1+1	Bare
<i>Acer campestre</i> (Field Maple)	30%		
<i>Quercus robur</i> (Pedunculate Oak)	30%		
Tree planting would be organised in 3 metres interval spacing. Ideally a mixture of whips and standard trees that are locally sourced.			

Proposed Planting
An earth bund is proposed to screen views from the south and east. The bund will be of a flat total height to allow for effective planting so will rise in height from between 2m on the eastern boundary to 3m on the western boundary due to the topography of the site. This bund will be planted with shrub species as indicated in the Planting table above. These species have been recommended within the Ecology report and are found within the sites existing hedgerows. The bund will also be planted with meadow grass seed mix.
Trees will be planted in front of the bund, the Ecology report recommends *Fraxinus excelsior* (Ash) however at the time of publication there is a restriction of the movement and use of Ash trees. *Sorbus aucuparia* (Rowan) have been chosen as an alternative. However should the restrictions have been lifted at the time of planting then *Fraxinus excelsior* will be used. Understorey planting should consist of the same shrub species used for the bund planting as indicated above.

Planting Phases
Before planting begins, areas will be removed of any rubbish, debris and unwanted existing vegetation. Some healthy and native plants that are to be removed will be kept if possible to become part of the proposed planting scheme.
New vegetation should be planted during the dormant season between October and March, if construction does not finish until Spring then planting will not be able to be carried out until the following October at the earliest.
The planting scheme includes a mixture of native species local to the area. Tree planting will be organised in 3 metres interval spacing. Ideally whips (40 - 90cm in height) will be used as these will establish quickly and thrive. Shrub plants will be planted in double staggered rows with 4-6 plants per metre. Local specimens are recommended as they will establish faster having become accustomed to the climate.

Management
Areas designated for landscaping will not be used during or as part of the construction process. During the early years light regular trimming during the autumn will encourage dense and bushy growth. Mulch placed immediately after planting will reduce the amount of weeds and will help retain soil moisture.
The planting will be inspected regularly during the first summer following planting. If any plant failures are identified these will be removed and replaced during the next dormant season.
To protect young plants from damage they will be protected using plant guards such as clear spiral guards and shrub shelters. If necessary a rabbit-proof fence will be installed around the site. Trees will be managed to avoid conflict within site usage - they will not be planted too close to areas where damage could occur to the root ball.

Management Objectives
The management objective of this landscaping specification is to provide screening and improve the visual amenity of the site particularly for views from the East. This will be done by planting trees and shrubs to act as screens for reduced visual impact.

Aftercare and Maintenance
The aftercare of the vegetation is planned for five years after planting. Within the first year the new planting will be inspected regularly during the first summer following planting. Plant failures will need to be replaced during the next dormant season. Weeds will be removed (by hand or chemically) and during the first 5 years the planting will be regularly inspected.

Figure:

Planting Specification for a screening bund

Drawing Number: WIN01_Redlinhay2_PP_006

Scale*: Various

Papersize: A3

Drawn by: ESG
Date: 27th May 2015
Amended: 3rd December 2015

Planting shown is representative of approximately 3 years growth

Project:

Redlinhay, Crown Hill

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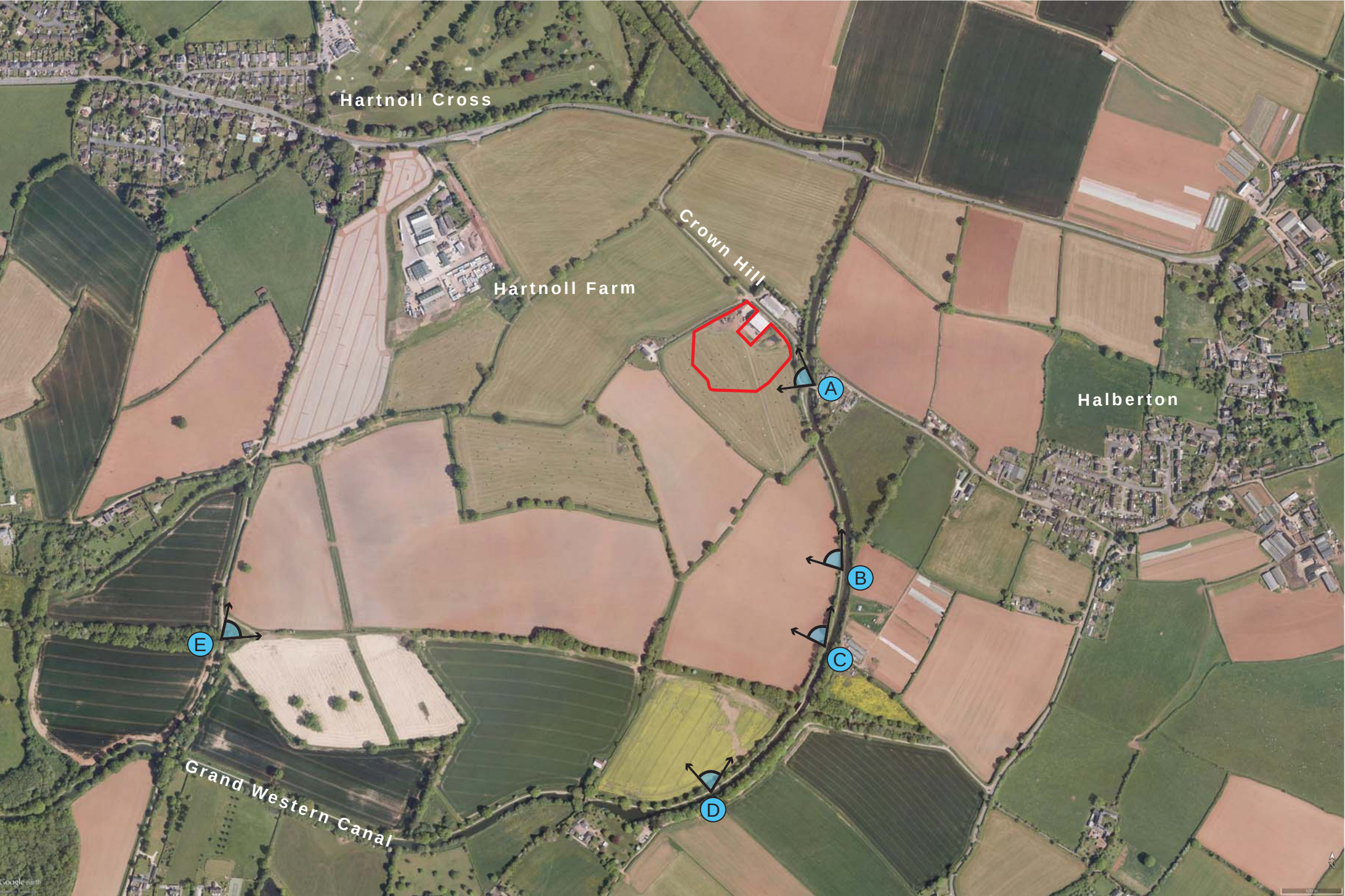
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* When printing please ensure the document is printed at actual size to preserve the correct scale.

File Name: WIN01_RE_Planting Plan Dec 2015

Last Saved: 3/12/2015 2:31 PM

Appendix C



LEGEND:

Site Boundary

Photograph locations

L2

RED LINHAY, CROWN HILL, TIVERTON

VIEWPOINT LOCATION PLAN

 Offices throughout the UK and Europe www.peterbrett.com			
Drawing No. 38071-02		Mark	Revision
		REV	Date 18/05/2016
			Scale AS SHOWN
			Drawn KH
			Checked NE

Aerial photo images reproduced from a licensed copy of Google Earth Pro: 2015 Getmapping plc



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0 100 200 300 400 500m



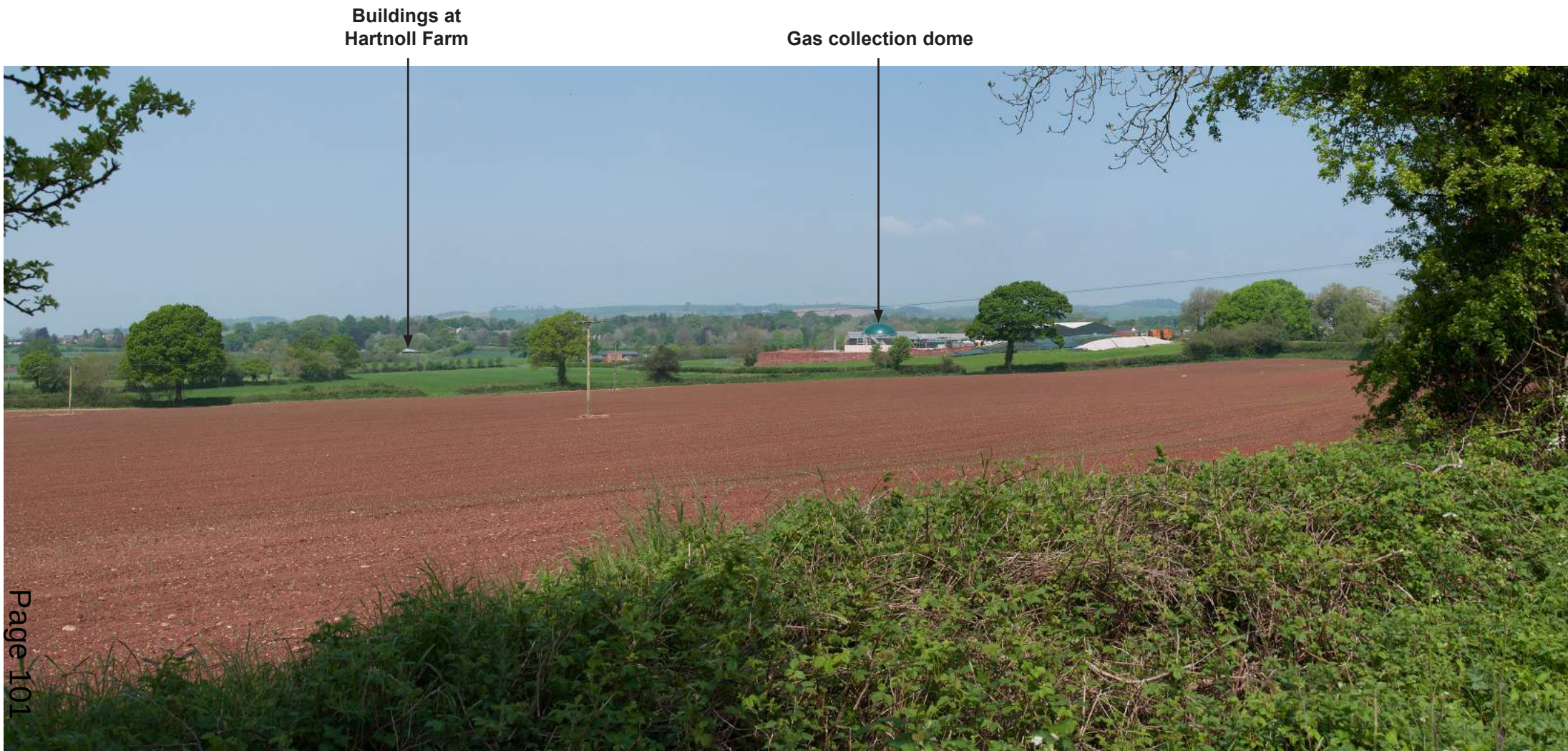
Viewpoint A: View from the tow path north of Crown Hill Bridge, looking south-west to north-west towards site.

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Job No.	Sheet No.		
38071	1/xx	Rev	
Red Linhay, Crown Hill, Tiverton			
Landscape and Visual Appraisal			
Mid Devon District Council			
Viewpoint A			Date 18.05.2016
			Drawn KH
			Checked NE



Viewpoint B: View from Grand Western Canal Towpath, looking north-west to north towards site.

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Job No.	Sheet No.	
38071	2/xx	Rev
Red Linhay, Crown Hill, Tiverton Landscape and Visual Appraisal		
Mid Devon District Council		
Viewpoint B		Date 18.05.2016 Drawn KH Checked NE



Viewpoint C: View from Grand Western Canal Towpath, looking north-west to north towards site.

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Job No. Sheet No. 38071 3/xx Rev	Red Linhay, Crown Hill, Tiverton Landscape and Visual Appraisal	
Mid Devon District Council		
Viewpoint C	Date 18.05.2016 Drawn KH Checked NE	

Gas collection dome



Viewpoint D: View from Grand Western Canal Towpath, looking north towards site.

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Job No.	Sheet No.		
38071	4/xx	Rev	
Red Linhay, Crown Hill, Tiverton			
Landscape and Visual Appraisal			
Mid Devon District Council			
Viewpoint D			Date 18.05.2016
			Drawn KH
			Checked NE

Gas collection dome

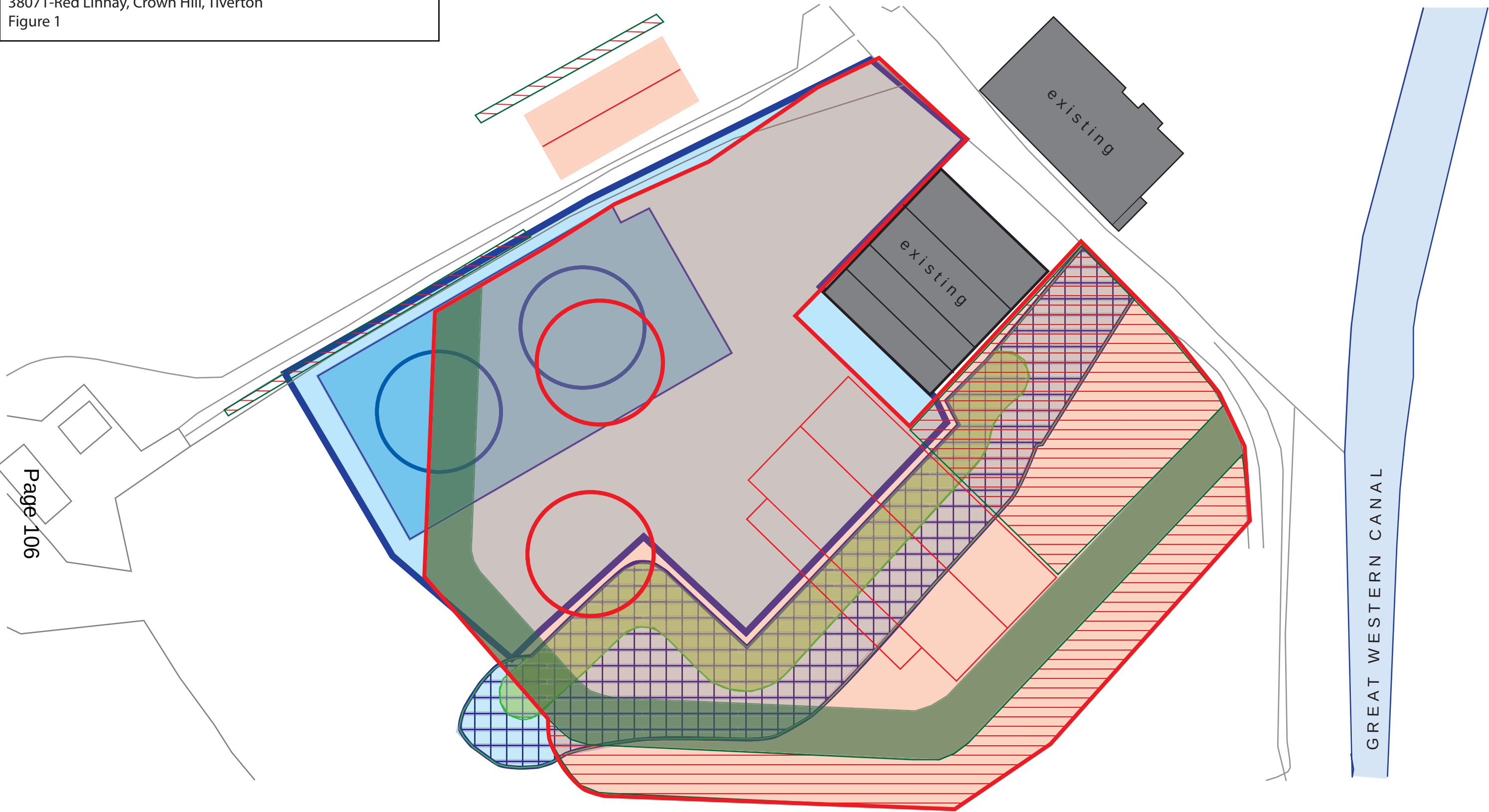


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Viewpoint E: View from brigde along Manley Lane, looking north-east towards site.

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Job No.	Sheet No.		
38071	5/xx	Rev	
Red Linhay, Crown Hill, Tiverton			
Landscape and Visual Appraisal			
Mid Devon District Council			
Viewpoint E			Date 18.05.2016
			Drawn KH
			Checked NE

Appendix D



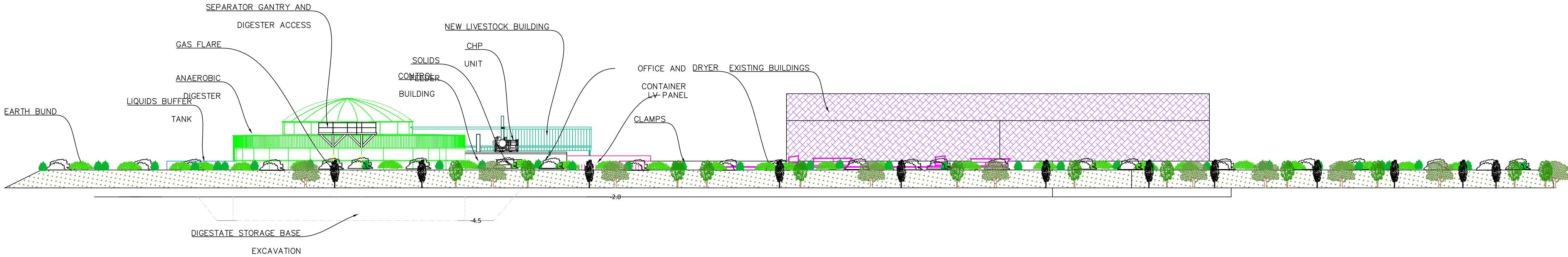
LEGEND

- Site boundary & Layout for Scheme- A- Existing Planning Permission-13/1605/MFUL
- Proposed Bund Scheme- A- Existing Planning Permission-13/1605/MFUL
- Proposed planting Scheme- A- Existing Planning Permission-13/1605/MFUL

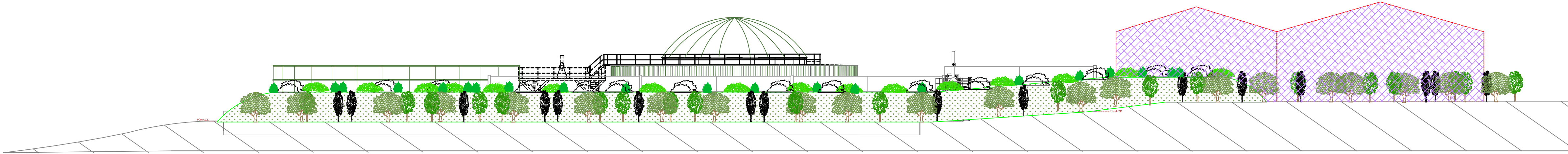
- Site boundary & Layout for Scheme- B- Proposed development(commenced)-15/01034/MFUL
- Proposed bund Scheme- B- Proposed development(commenced)-15/01034/MFUL
- Proposed planting Scheme- B- Proposed development(commenced)-15/01034/MFUL

Appendix E

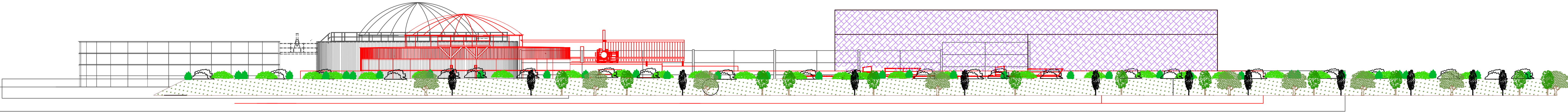
South Elevation - Proposed



Southwest Elevation - Approved with 106 Agreement



South Elevation - Approved and Proposed Overlay
(106 Agreement not shown)



- Proposed Development
- Approved Development
- Existing Buildings

Figure 3
South Elevation Overlay
Drawing Number - WIN01_Redlinhay2_EIOv106_001

Scale* - 1:250	Papersize - A1	Project Redlinhay, Crown Hill
Drawn by - ESG		Client Greener for Life Energy Limited
Date - 5th May 2016		

Appendix F

Appendix 2 Methodology for Assessing Importance, Impact & Significance of Effect

There is currently no standard adopted statutory or government guidance for assessing the importance of an archaeological feature and this is instead judged upon factors such as statutory and non-statutory designations, architectural, archaeological or historical significance, and the contribution to local research agendas. Considering these criteria each identified feature can be assigned to a level of importance in accordance with a five-point scale (Table A, below).

Table A: Assessing the Importance of a Cultural Heritage Site

SCALE OF SITE IMPORTANCE	
NATIONAL	The highest status of site, e.g. Scheduled Monuments (or undesignated assets of schedulable quality and importance). Grade I and Grade II* Listed Buildings. Other listed buildings that can be shown to have exceptional qualities in their fabric or historical associations not adequately reflected in the listing grade. Conservation Areas containing very important buildings. Undesignated structures of clear national importance. Extremely well preserved historic landscape, whether inscribed or not, with exceptional coherence, time depth, or other critical factor(s).
REGIONAL	Grade II Listed Buildings or other designated or undesignated archaeological sites (in addition to those listed above), or assets of a reasonably defined extent and significance, or reasonable evidence of occupation / settlement, ritual, industrial activity etc. Examples may include areas containing buildings that contribute significantly to its historic character, burial sites, deserted medieval villages, Roman roads and dense scatter of finds.
LOCAL	Evidence of human activity more limited in historic value than the examples above, or compromised by poor preservation and/or survival of context associations, though which still have the potential to contribute to local research objectives. Examples include sites such as 'locally designated' buildings or undesignated structures / buildings of limited historic merit, out-of-situ archaeological findspots / ephemeral archaeological evidence and historic field systems and boundaries etc.
NEGLIGIBLE	Assets with very little or no surviving archaeological interest. Examples include destroyed antiquities, structures of almost no architectural / historic merit, buildings of an intrusive character or relatively modern / common landscape features such as quarries, drains and ponds etc.
UNKNOWN	Insufficient information exists to assess the importance of a feature (e.g. unidentified features on aerial photographs).

The importance of already identified cultural heritage resources is determined by reference to existing designations. Where classification of a receptor's value covered a range of the above possibilities or for previously unidentified features where no designation has been assigned, the value of the receptor was based on professional knowledge and judgement.

For some types of finds or remains there is no consistent value and the importance may vary, for example Grade II Listed Buildings and Conservation Areas. For this reason, adjustments are occasionally made, where appropriate, based on professional judgement.

Impact Assessment Criteria

The magnitude of impact upon the archaeological and heritage resource, which can be considered in terms of direct and indirect impacts, is determined by identifying the level of effect from the proposed development upon the baseline conditions of the site and the cultural heritage resource identified. The criteria for assessing the magnitude of impact are set out in Table B (below).

In certain cases, it is not possible to confirm the magnitude of impact upon a cultural heritage resource, especially where anticipated buried deposits exist. Where possible a professional judgement as to the scale of such impacts is applied to enable the likely 'Significance of Effects' to be established; however, a magnitude level of 'uncertain' is included for situations where it is simply not appropriate to make such a judgement at this stage of works.

Table B: Criteria for Determining Magnitude of Impact

IMPACT LEVEL	DEFINITION
HIGH	Major impacts fundamentally changing the baseline condition of the receptor, leading to total or considerable alteration of character or setting – e.g. complete or almost complete destruction of the archaeological resource; dramatic visual intrusion into a historic landscape element; adverse change in the setting or visual amenity of the feature/site; significant increase in noise; extensive changes to use or access.
MEDIUM	Impacts changing the baseline condition of the receptor materially but not entirely, leading to partial alteration of character or setting – e.g. a large proportion of the archaeological resource damaged or destroyed; intrusive visual intrusion into key aspects of the historic landscape; or use of site that would result in detrimental changes to historic landscape character.
LOW	Detectable impacts which alter the baseline condition of the receptor to a small degree – e.g. a small proportion of the surviving archaeological resource is damaged or destroyed; minor severance, change to the setting or structure or increase in noise; and limited encroachment into character of a historic landscape.
NEGLIGIBLE	Barely distinguishable adverse change from baseline conditions, where there would be very little appreciable effect on a known site, possibly because of distance from the development, method of construction or landscape or ecological planting, that are thought to have no long term effect on the historic value of a resource.
UNCERTAIN	Extent / nature of the resource is unknown and the magnitude of change cannot be ascertained.

The overall Significance of Effects from the proposed development upon the Cultural Heritage Resource is determined by correlating the magnitude of Impact against value of the Cultural Heritage resource. Table C highlights the criteria for assessing the overall Significance of Effects. Where effects are moderate or above these are classified as significant.

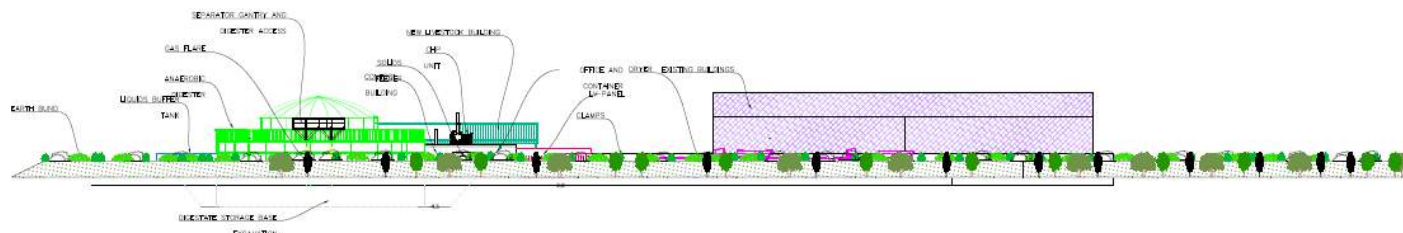
Table C: Significance of Effects

IMPORTANCE	MAGNITUDE			
	HIGH	MED	LOW	NEG
NATIONAL	Severe	Major	Mod	Minor
REGIONAL	Major	Mod	Minor	Not Sig.
LOCAL	Mod	Minor	Minor	Not Sig.
NEGLIGIBLE	Minor	Not Sig.	Not Sig.	Nt.

Not Sig. = Not Significant; Nt. = Neutral; Mod = Moderate; Ext. = Extensive

Appendix G

South Elevation - Proposed



Southwest Elevation - Approved with 106 Agreement



South Elevation - Approved and Proposed Overlay
(106 Agreement not shown)

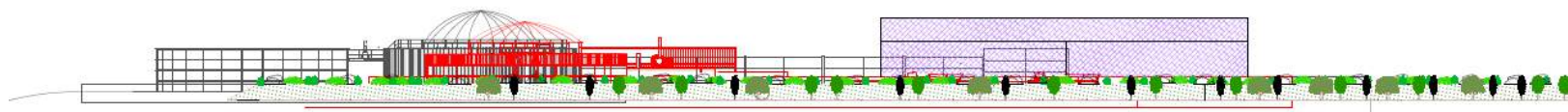


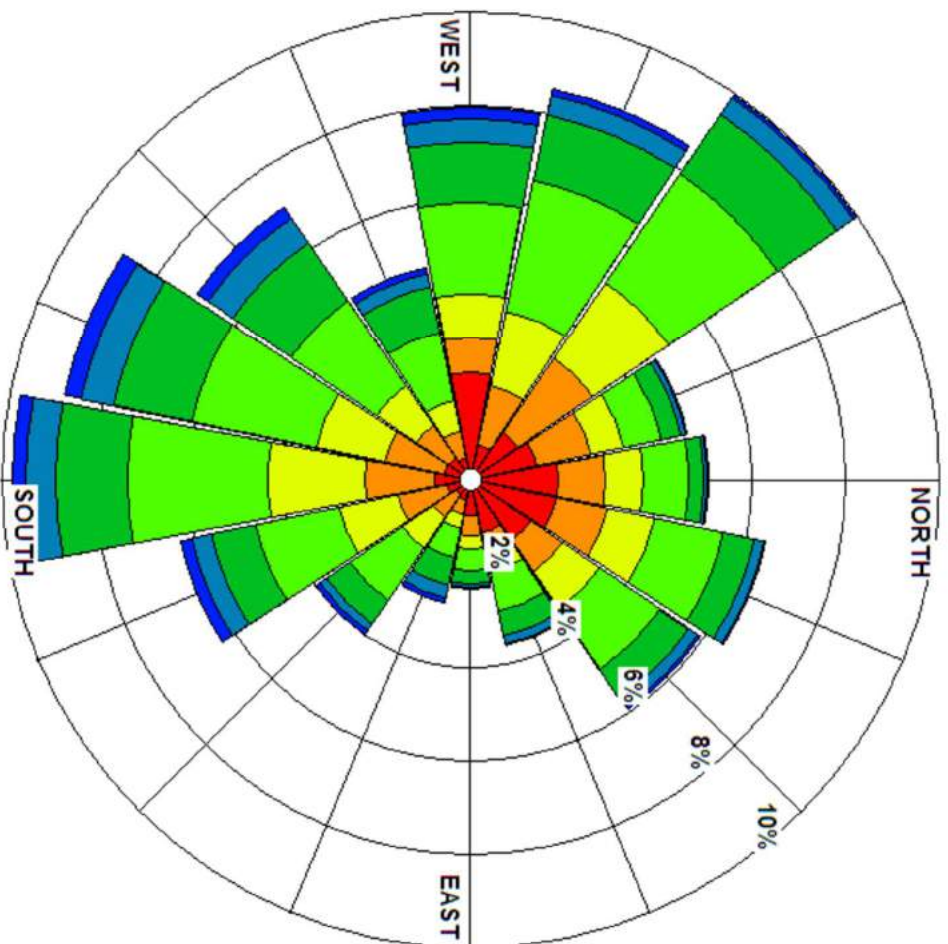
Figure 3: Existing and Proposed Development Elevations Overlay

Project: Red Linhay Anaerobic Digester

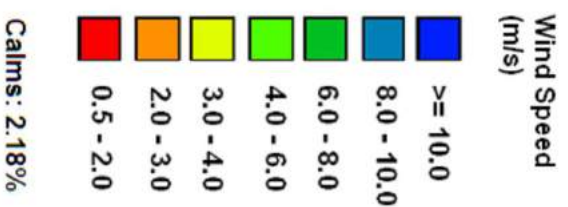
Date: 17/05/16 Job Number: 10830

Drawn by: ZE Approved by: AB

Appendix H



Exeter, UK 2001-2010



Client:
**MID DEVON DISTRICT
COUNCIL**

**RED LINHAY
ANAEROBIC DIGESTER
WIND ROSE**

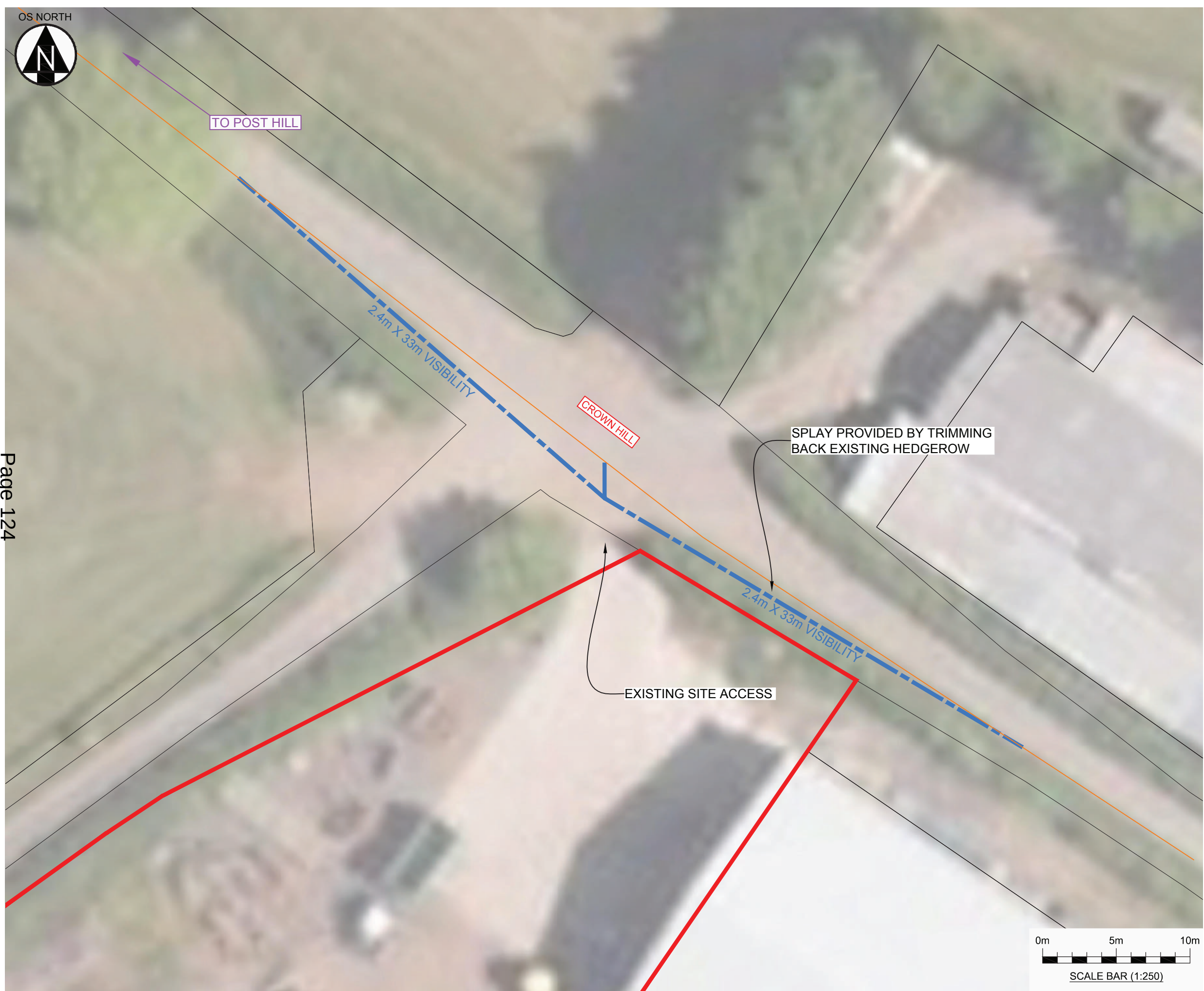
Date: 18.05.16
A4 Scale: -
Drawn by: GH
Checked by: GH

Figure Number
FIGURE 4.1



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Appendix I



NOTE

APPLICATION AREA BASED UPON
DRAWING TITLED FIGURE 2: SITE PLAN
DATED SEPTEMBER 2013
PRODUCED BY E4 ENVIRONMENT

KEY

- APPLICATION SITE
- AMENDMENT TO ORDNANCE SURVEY (EDGE OF CARRIAGEWAY)

A	29/10/13	AMENDMENT TO TITLEBLOCK	AJT	KJ
Rev	Date	Description	By	Ckd



Ash House
Cook Way
Taunton
Somerset TA2 6BJ
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Client

GREENER FOR LIFE ENERGY LTD

Project

PROPOSED ANAEROBIC DIGESTION PLANT, REDLINHAY, CROWN HILL, TIVERTON, DEVON

Title

EXISTING SITE ACCESS AND VISIBILITY SPLAYS

Drawing Status

IN REPORT

Job No.

C13425

Drawn	Checked	Scale at A3	Date	Issue Date
AJT	KJ	1:250	01/08/13	19/09/13

Drawing No.	Revision
13425/T03	A

Appendix J

The existing Bend

Short section of natural stone wall adjacent to gateway 1m high

Gateway surface stoned

High grass verge

Delapidated fence

Highway surface water gully

The passing bay

Back edging kerb 200mm

Delapidated fence

Full surface course reinstatement

R20120

Passing bay/Road widening construction detail
(Scale 1:10)

40	Surface course 14mm SMA
70	Binder course (AC20)
80	Road base (AC32)
150	Sub-base
	Capping as directed by CBR test

Rev No	Revision Note.	Date	Drawn	Checked

NUMBER - REV - CLIENT - PROJECT
00030 - GFL - Hartnoll - Passing bay

TITLE
The Passing Bay

DATE
10.02.2015
DRN BY
HN

SHEET
01/02
CHK BY
LM

SCALE
1:250
PAPER SIZE
A3

MASON PRICE CONSTRUCTION LTD
BOURNE WORKS
COLLINGBOURNE DUCIS
MARLBOROUGH
WILTSHIRE. SN8 3EQ
Email: info@masonpriceconstruction.co.uk



The passing bay position



NUMBER-REV-CLIENT-PROJECT 00030 - GFL - Hartnoll - Passing bay				MASON PRICE CONSTRUCTION LTD BOURNE WORKS COLLINGBOURNE DUCIS MARLBOROUGH WILTSHIRE. SN8 3EQ Email: info@masonpriceconstruction.co.uk			
TITLE The Passing Bay Position		SHEET 02/02		SCALE 1:250		PAPER SIZE A3	
DATE 10.02.2015		CHK BY LM		DRN BY HN			

Rev	No	Revision	Note	Date	Drawn	Checked



REPORT OF THE HEAD OF PLANNING AND REGENERATION

15/01034/MFUL - ERECTION OF A 500KW ANAEROBIC DIGESTER AND ASSOCIATED WORKS WITH 2 SILAGE CLAMPS. REVISED SCHEME TO INCLUDE THE CHANGE OF ORIENTATION OF THE LAYOUT AND INSTALLATION OF 2 DRIERS - LAND AT NGR 299621 112764 (RED LINHAY) CROWN HILL HALBERTON

Section 1: Consideration of planning application 15/01034/FULL.

Description of Development:

The proposed development is for a revised scheme for the installation of an anaerobic digester (AD) to generate 500kW of electricity converted from biogas via a combined heat and power unit (CHP). Some of the power will be used to run the site with the remainder exported to the National Grid. The site was a pasture field which formed part of the Hartnoll Farm agricultural holding accessed via the existing access on Crown Hill and is adjacent to existing agricultural buildings associated with Hartnoll Farm. Works have already commenced on site and this application is to regularise those works. It follows a previous planning permission for an AD plant in this location under application 13/01605/MFUL.

The proposed site covers an area of 1.23 Hectares including a bund and planting area of 0.3 hectares. It is some 0.32ha larger than the approved scheme 13/01605/MFUL with most of the additional site area being taken up with the additional planting and bund to the site, which will assist with screening and protection of the nearby Grand Western Canal. The report on the application considered at Planning Committee on 13th January 2016 set out a schedule of both the components of the approved scheme and that of the current application together with a summary of the changes. The extent of changes between the approved scheme and that currently under consideration are:

1. The site has increased in size from 0.91 hectares to 1.23 hectares the majority of the area is the increase to the length of the silage units and a larger bund area. The site now extends further to the South/South-east by 36 metres to the internal base of the bund and 46 metres to the outside edge of the bund and is therefore closer to the Grand Western Canal.
2. The main AD structures have re-aligned to a north south axis from an east west axis.
3. The silage clamps have reduced in number from 4 to 2 but have reduced in size and capacity from 7844 cubic metres to 7200 cubic metres a reduction of 644 cubic metres.

4. Re-location of the digester tank to the site directly to the south of the AD unit which is located in approximately the same point as the previous approval 13/01605/FULL.
5. The digester tank is slightly larger an increase from 3409 cubic metres to 3927 cubic metres an increase of 518 cubic metres.
6. Buffer tank is 1m higher than the approved size.
7. CHP unit is 1.5m longer and 0.4m wider, but of the same height.
8. Additional structures are Control Building, Gas compressor building, Transformer HV and LV, Office Building, 2 x Dryers.
9. Additional Information Submitted Historic Environment site assessment, Landscape response (East Devon), Ground water Vulnerability Plan, additional Noise Assessment Document.

This application seeks to make internal layout changes of the site to part facilitate the movement of vehicles and to be able to incorporate the earth bund, an element which the Environment Agency look to see included.

The site comprises of part of a field located adjacent to Crown Hill a County Highway and at its closest point, the site is approximately 20m to the west of the Grand Western Canal. The land is gently sloping, broadly down from north to south. The field is enclosed by hedgerows to the north, east and west of the site with sporadic trees. The closest residential property to the site is at 'Crown Hill Timber' which is 33m away to the north of the entrance to the site. Other properties within close proximity are Lisieux, Badgers Holt (65 and 80m respectively from the closest edge of the site [tree planting area]). Other properties Beech Cottage, Osterley and Green Gates are screened by the first two properties but are all between 100 and 125m from the nearest point of the site (the planting area around the Bund).

Part of the land is currently still in agriculture with the main core subject to development of the AD Plant.

The site is proposed to be laid out in accordance with the plans submitted under this application.

Existing boundary hedgerows and trees are proposed for retention with new native trees proposed to be planted in the area to the east and south east of the site closest to the Grand Western Canal and a new native hedgerow planted to the north western boundary of the site. It is considered that the inclusion of tree planting to the south west is not required due to the topography of the land.

The area of ground proposed to be covered by the AD Plant and associated infrastructure totals approximately 0.93 hectares of the site area with the remainder of the site being the bund and planting scheme.

REASON FOR REPORT:

At the meeting on 13th January 2016, Members resolved as follows:

RESOLVED that Members were minded to refuse the application and therefore wished to defer the decision to allow for a report to be received setting out:

a) the implications of the proposed reasons for refusal based on concerns regarding landscape and visual impact, the impact on the character and appearance on the Grand Western Canal conservation area, the impact on residential amenity and whether the transport plan was up to date, accurate and could be relied upon.

b) Potential enforcement action.

This report seeks to review potential reasons for refusal as indicated.

Relationship to Corporate Plan:

The emerging corporate Plan sets out four priorities including the economy, community and the environment, upon which this application has a bearing.

Financial Implications:

The applicant may make an application for costs against the Council at appeal. Such costs claims are made by demonstrating that there has been unreasonable behaviour that has led to unnecessary expense. The Council must be in a position to defend and substantiate each of its reason for refusal.

Legal Implications:

Planning decisions must be made in accordance with the development plan unless material considerations indicate otherwise. The starting point for decision making is therefore the policies within the development plan.

Risk Assessment:

If Committee decide to refuse the application for reasons that cannot be sustained at appeal there is a risk of a successful appeal costs claim against the Council for reasons of unreasonable behaviour.

REASONS FOR REFUSAL AND IMPLICATIONS:

During the meeting, Members indicated that they were minded to refuse the application for the following proposed reasons:

1. Landscape and visual impact,
2. Impact upon the character and appearance on the Grand Western Canal Conservation Area.
3. Impact upon residential amenity
4. Whether the transport plan was up to date, accurate and could be relied upon.

Suggested wording for reasons for refusal

Your officers suggest the following wording for the reasons for refusal:

1. In the opinion of the Local Planning Authority, due to the scale and siting of the proposed Anaerobic Digester installation, the development is considered to have a harmful effect on the rural landscape character and visual amenities of the area including when viewed from public vantage points on local roads,

public footpaths including the Grand Western Canal and it has not been demonstrated that this harm could be satisfactorily mitigated. The application is considered to be contrary to policies COR2 and COR5 of the Mid Devon Core Strategy 2007 (Local Plan Part 1), DM2, DM5 and DM22 of the Local Plan 3 Development Management Policies and the National Planning Policy Framework.

2. The proposed development is located in close proximity to the Grand Western Canal Conservation Area. It is the opinion of the Local Planning Authority that if granted it would unacceptably detract from significance of the Conservation Area (a designated heritage asset) in terms of its character and appearance. Accordingly it is considered contrary to policies COR2 and COR5 of the Mid Devon Core Strategy 2007 (Local Plan Part 1), DM2, DM5, DM22 and DM27 of the Local Plan 3 Development Management Policies and the National Planning Policy Framework.
3. In the opinion of the Local Planning Authority, due to the proximity of neighbouring dwellings it is considered that the proposed development will have an unacceptably negative impact on the amenity of the occupiers of these neighbouring properties due to odours and noise associated with the development and running of the plant. The application is considered to be contrary to policies COR2 and COR5 of the Mid Devon Core Strategy 2007 (Local Plan Part 1), DM2, DM5, DM7 and DM22 of the Local Plan 3 Development Management Policies and the National Planning Policy Framework.
- 4a. The submitted transport statement is not considered sufficiently up to date and does not address traffic generation associated with the newly erected livestock building on the farm holding. It is the view of the Local Planning Authority that this will impact on the ability of the Anaerobic Digester installation to be able to adequately function without additional and unacceptable traffic generation to the detriment of local amenities and character, contrary to policies COR2 and COR5 of the Mid Devon Core Strategy 2007 (Local Plan Part 1), policies DM2, DM5 and DM22 of the Local Plan Part 3 Development Management Policies and the National Planning Policy Framework.

OR

- 4b. It is the view of the Local Planning Authority that it has not been satisfactorily demonstrated that the proposed Anaerobic Digester when considered in conjunction with other approved development for livestock buildings, will not result in additional and unacceptable traffic generation to the detriment of local amenities and character, contrary to policies COR2 and COR5 of the Mid Devon Core Strategy 2007 (Local Plan Part 1), policies DM2, DM5 and DM22 of the Local Plan Part 3 Development Management Policies and the National Planning Policy Framework.

Implications: reason for refusal 1.

Your officers identified in their report to Planning Committee on 13th January 2016 that the proposed development would cause some harm to the rural landscape character of the area when viewed from public vantage points such as local roads and public footpaths, and The Grand Western Canal, but that this harm would be limited due to the nature of the topography which provides a degree of containment in short distance views and “loses” views of the development in panoramic longer distance views.

Your officers identified a greater degree of harm to the visual amenities of private residential properties, stated in the submitted Landscape and Visual Impact Assessment to have between minor and moderate adverse effects on residents, reducing over time as views of the development become filtered by mitigation planting.

Your officers weighed this harm to the rural landscape character and visual amenities of the area against the benefits of the scheme and concluded that the balance weighed in favour of the development. In addition an AD plant has already been granted consent on the same site with substantially lower amounts of screening compared with that proposed in this application. Members are advised to consider the effects on landscape character and visual amenities for themselves and consider whether the additional mitigation measures by way of earth bunding and planting are sufficient to mitigate the landscape and visual harm. Furthermore, Members will need to be sure that harm to landscape and visual impact arising from this development will be materially greater than that associated with the approved scheme, to the extent that refusal is warranted in this case, whilst planning permission was granted for the earlier scheme.

Implications: reason for refusal 2.

Your officers identified in their report to Planning Committee on 13th January 2016 that the proposed development could cause some harm to the Grand Western Canal Conservation Area but that this harm would be limited due to the nature of the topography and natural screening which provides a degree of containment in short distance views and views from some more distant points from the Canal.

The Canal by its nature is set down in the landscape with only glimpses of the proposed from various points along the tow path. More prominent views are available on the bridge crossing the canal at Badgers Holt, but this is limited to this part of the canal, and would be only visible when crossing the bridge.

Your Conservation Officer has assessed the impact the proposal will have on the Grand Western Canal Conservation Area. Whilst the complex is quite visible from the conservation area, it is found that it is not more harmful to its setting than that previously given consent. With planting it will create ‘less than substantial harm’.

Since the previous planning approval for the AD plant the farmer has been granted planning consent for two agricultural buildings which in themselves provide substantial screening from certain parts of the Grand Western Canal.

Your officers weighed this possible harm to the Grand Western Canal against the benefits of the scheme and concluded that the balance weighed in favour of the development. In addition an AD plant has already been granted consent on the same site with substantially lower amounts of screening compared with that proposed in this application. Members are advised to consider the effects on the Grand Western Canal Conservation Area for themselves and consider whether the additional mitigation measures by way of earth bunding and planting are sufficient to alleviate the negligible visual harm. Furthermore, Members will need to be sure that harm to the Grand Western Canal Conservation Area arising from this development will be materially greater than that associated with the approved scheme, to the extent that refusal is warranted in this case, whilst planning permission was granted for the earlier scheme.

Implications: reason for refusal 3.

Your officers identified in their report to Planning Committee on 13th January 2016 that the proposed development would cause some harm to local residents with regard to noise and odour. Likely sources of noise were identified as related traffic movements from construction and operational phases, the unloading of materials on site, the running of the combined heat and power unit, the running of the driers and the pumping of digestate to land.

Your officers weighed this harm against the information provided with regard to:

- a) Noise levels associated with the development of the scheme and the subsequent servicing of the proposed AD plant has been scrutinised by the Environmental Health Officer who is, following the additional noise information submitted, content that noise levels at nearby receptors can be maintained at a level of 22dB (LA90 15min).
- b) Odour associated with the development have been considered by your officers and it is considered that as the system is a closed system and the only storage within the silage clamps will be crops and dry digestate from the on-site activity, there will be no increase in odours over and above what would normally be associated with farming activities. It is therefore considered that all aspects of the AD process and management of the operation adequately address concerns relating to odour raised by respondents. In the appeal APP/T4210/A14/2224754 (AD Plant) odour control forms part of the Environment Agency's regulatory responsibility.

Your officers (including advice from Environmental Health) concluded in their report that the majority of the noise would be temporary and infrequent and much of its source is from common agricultural practice, it is not considered to be likely to cause a statutory nuisance or impact upon the amenities of the occupiers of nearby dwellings such as to warrant a reason for refusal.

Odour associated with the AD plant will be dealt with under the control measures via the Environment Agency permitting regime. The appeal Inspector for the Edgeworthy AD plant proposal considered such control measures were adequate to protect

against unacceptable odour emission associated with the development and therefore to meet policy requirements within DM7 and DM22 of the Local Plan Part 3. The Fletcher Bank called in appeal on an AD plant also gives guidance on the approach to odour: whilst considered by the Inspector, he too concluded that the appropriate control was through the Environment Agency's consenting regime and that it was therefore not a material planning consideration unless residual odour would be unacceptable in planning terms.

In this instance Environmental Health's advice is that adequate control measures are in place to address odour. Members are advised that given the separate requirements under the Environmental Health consenting regime, in order for a refusal on odour grounds to hold up, the Local Planning Authority will need to be in a position to clearly demonstrate that the development will lead to unacceptable residual odour having taken into account all the proposed mitigation measures. Furthermore the Council would need to clearly demonstrate in terms of both noise and odour why the current proposal is unacceptable when the earlier scheme under application 13/01605/MFUL was acceptable.

Your officers conclude that whilst the site may have changed in its orientation along with the inclusion of additional buildings associated with the site and off the site, they do not consider these changes to be so harmful and or have a detrimental impact on the noise and odour management associated with this application as to form a reason for refusal. Members are advised to consider the degree of impact likely to be experienced, and weigh this against the benefits of the scheme.

Implications: reason for refusal 4.

The present Transport Statement associated with this application was first undertaken in October 2013 for the initial application 13/01605/MFUL. This application was subsequently approved by the Planning Committee.

The same Transport statement was utilised for this application. It is apparent the same details have been used and plans within the document are clearly associated with the previous application. The plans do not change the detail of the movements associated with the new proposal.

The Transport Statement submitted with the application did not make any reference to the new livestock building which was granted consent under 15/00382/Full. The building had only recently been granted consent at the time of the submission. Although the building takes away a small area of land (889sqm), it is considered that this is not such a material amount of land as to impact on the transport movements of the AD plant. Members were concerned that the livestock buildings had not been taken into account in traffic generation figures and indicated that they were minded to refuse on this basis. Draft reason for refusal 4a addresses these concerns.

However, since Planning Committee's consideration of the application at the meeting of 13th January 2016, the applicant has submitted an addendum to the transport statement within which the effect of the two livestock buildings at Red Linhay is assessed. The addendum report sets out that of the 71 cattle to be kept within the two livestock buildings at Red Linhay, only 31 will require grazing of the adjacent

land. The rest are intensive beef cattle which are housed in the buildings and not grazed at any time of the year. Winter feed and all year feed is imported in from other parts of the farm (historically already happening).

The report sets out that 20 acres of land will be needed for grazing of these 31 cattle over the year, but that this 20 acres can be mitigated against by including a further 26 acres of land at Hartnoll Farm within the area proposed to be cropped as AD feedstock. The 26 acres is located to the west of Manley Lane and to the north of the Grand Western Canal. The 31.1 tractor/trailer loads from this 26ha area of crops can be delivered to the AD site via a farm track instead of using public roads. The report concludes that there will be no impact upon the submitted number of road movements generated to the AD Plant as a result of the introduction of the agricultural livestock buildings.

This 26 acres of land straddles the former railway line. The part to the north lies within an area allocated for development within the Tiverton Eastern Urban Extension, although shown in the adopted masterplan as landscape/green infrastructure. The part of the land to the south of the former railway land is identified in policy as forming part of the green infrastructure area associated with the urban extension. A further masterplanning exercise for this part of the urban extension site (known as Area B) has yet to be completed. Whilst none of the 26 acres is therefore currently identified for development within the adopted masterplan, this has yet to be finally established via a further masterplanning exercise. Therefore in the longer term, the continued availability of this land to crop for the AD plant has not been finally established.

In the event Members feel there is sufficient uncertainty about the future availability of this land parcel at Manley Lane, they will need to then consider if an additional 31.1 tractor and trailer loads bringing feedstock to the AD plant on the roads (from an alternative site) is significant, will cause unacceptable impacts and is defensible as a reason for refusal.

Your officers concluded in their report that there would be no material change to the transport movements associated with this application and that of the previously approved application for the same sized AD Plant. Your officers concluded that whilst the site may have changed in its orientation along with the inclusion of additional buildings associated with the site and off site, they do not consider these changes to be so harmful and or to have such a detrimental impact on the highway network over and above the stated traffic movements for the approved AD plant, such as to justify refusal.

Members are advised to consider the degree of impact likely to be experienced, and weigh this against the benefits of the scheme as for reason for refusal 1. To make a case for refusal on this basis Members will also need to demonstrate the difference in traffic generation and impact between the previously approved scheme and that now being considered. A case would need to be made that any difference was significant and would lead to unacceptable impact. In the event that Members wish to refuse on this basis, draft reason 4b has been prepared.

Conclusions

The proposed re-orientation of the AD Plant and associated buildings will provide the Authority, public and immediate area with a scheme which delivers greater controls through the implementation of more stringent planning conditions, increased planted screening, along with the provision of an earth bund between the site and the Grand Western Canal, to that of the existing approved AD Plant under 13/01605/MFUL which was found acceptable. Members will need to weigh any additional impacts associated with the current application compared with that granted and balance them against the greater controls and mitigation referred to above.

In order to refuse planning permission Members will need to clearly demonstrate, with evidence, that:

1. there are additional impacts resulting from the current scheme over and above that approved;
2. that they are significant and would be unacceptable; and
3. that they outweigh the additional controls and mitigation measures proposed within the current scheme and within draft conditions.

This would need to be demonstrated for each reason for refusal. Expert evidence would be required to substantiate such a position. At this time, preliminary expert views are not available.

Should Members still be minded to refuse the application contrary to officer recommendation, Members may wish to concentrate upon reason 1. Members should consider very carefully refusing the application for the further reasons as set out in draft reasons 2, 3 and 4.

Section 2: Consideration of options for enforcement action.

Members are asked to note that this section of the report is only relevant if planning permission for application 15/01034/MFUL is refused.

It should be noted that the assessment of enforcement options as set out in this report has been informed by Counsel's opinion. Counsel was asked to clarify whether the applicant has a fall-back position in terms of whether they are able to implement the original planning permission for the AD plant on the site and if enforcement action is proposed, the scope of that action available.

Alleged Breach:

Without an appropriate planning permission, an unauthorised development has been undertaken at Red Linhay namely the construction of a 500kW anaerobic digester and associated works with 4 silage clamps.

Recommendation:

That the Legal Services Manager be authorised to take any appropriate legal action including the service of a notice or notices, seeking the removal of the structures from the land and the reinstatement of the land back to its former use as agricultural land together with the issue of a stop notice to prohibit construction works. In the

event of any failure to comply with the notices served the additional authority to prosecute, take direct action and/or seek a court injunction.

Reasons/Material Considerations:

A planning application was submitted in 2013 ref 13/01605/MFUL for the provision of a 500kW anaerobic digester and associated works with 4 silage clamps.

The attention of officers was drawn to this site in April 2015 when pre-commencement conditions had not been discharged fully. Following correspondence, planning application 15/01034/MFUL was submitted. The Planning Officer made his site visit on the 23rd July 2015 where upon it was found that the applicant had already commenced the construction of the site in accordance with the newly submitted application rather than the 2013 approval. At the time of the site visit the officer informed the site manager that the works were unauthorised and that no further works should take place until such time as any approval or not is given. This was followed up with an e-mail to the applicant and agents. Works have therefore taken place contrary to officer advice and at the applicant's risk.

It was made clear to the owner that Planning Permission would be required for the works undertaken to date, and that formal enforcement action would be placed on hold until such time as the planning application 15/01034/MFUL was determined.

Further communication has taken place with the owner and agent concerning amendments to the proposed scheme and the provision of further planting etc. In the event that the current planning application is refused formal enforcement action must be considered. This part of the report sets out options for such action.

Human Rights and Equality Issues:

The taking of any enforcement action could be said to affect the land/property owner/occupiers human rights under the provision of Article 8 and Article 1 of the First protocol to the Human Rights Act 1998.

In this case, the owner has made a free choice to construct the anaerobic digester and ancillary structures firstly not in accordance with the 2013 approval 13/01605/MFUL and prior to the decision on application 15/01034/MFUL. The Local Planning Authority believes it is pursuing a legitimate aim in seeking compliance with the provisions of the Town and Country Planning Act 1990 as amended so as to prevent demonstrable harm to the interests of acknowledged importance and to protect the environment.

Options for action or remedy:

The list of options available is as follows:

Take no action – This would not be appropriate as it could lead to the setting of a precedent allowing the construction of structures without planning consent. To do nothing in the event that the revised scheme is found to be unacceptable would also act to undermine the planning system.

Invite a further application to grant consent to regularise the Development – If application 15/01034/MFUL is refused, it would be inappropriate to invite a further planning application for the retention of the 500kW anaerobic digester and associated works with 4 silage clamps.

Issue Enforcement Notice - This is the recommended course of action in the event of a refusal of application 15/01034/MFUL.

The works required within such a notice are informed by legal advice over the status of the original planning permission on the site and whether it is still capable of being implemented. Assessment of the case and as informed by legal advice has led to the conclusion that as the earlier permission cannot still be implemented, and there is not a fall-back position available to the applicant.

As it is the view of the Local Planning authority that the earlier planning permission cannot be implemented, an enforcement notice is able to seek removal of the structures from the land – This is the recommended course of action.

Reasons for decision:

The unauthorised development has been undertaken within the last four years. The development is contrary to policies COR2 COR5 and COR18 of the Mid Devon Core Strategy (Local Plan Part1), policies DM1, DM2, DM3, DM4, DM5, DM6, DM7, DM22, and DM27 of the Mid Devon Local Plan Part 3 (Development Management Policies) and the taking of such action would be in line with policy DM31 of the same document.

Steps required:

1. **Remove the unauthorised structures from the land as listed below in points a) to p):**
 - a) **Digester Tank 8m Height diameter 25m and dome of height 5.5m with an overall height from excavated site 13.5m**
 - b) **Buffer tank height 4m and diameter 9m**
 - c) **Control cabin 12mx 3m x 2m high**
 - d) **CHP unit building 13.5m x 3m, including any chimney max height 7m**
 - e) **Control Building 14m x 7m x 3m**
 - f) **Gas compressor building 8m x 3.5m x 3m**
 - g) **Transformer HV Switch 2.5m x 2.5m 2.4m high (If installed)**
 - h) **LV Panel structure 12m x 2.5m x 2.5m high**
 - i) **Office 13.5m x 2.5m x 2.5m high**
 - j) **Solids feeder 9m x 4m x 4m high**
 - k) **2 x dryers 43m x 6m 3.5m high**
 - l) **A separator frame and clamp 9m x 7m 5.5m high**
 - m) **Feedstock clamps 2 bays 60m x 15m x 4m partially completed**
 - n) **Hardcore and concrete yard used for the anaerobic digester plant**
 - o) **Bund**
 - p) **Any other item not listed above which has been installed associated with the anaerobic digester plant.**

2. **Reinstate land back to its former use as agricultural land.**
3. **During the course of reinstatement there is to be an archaeological watching brief [details of which to be added to the notice prior to issue following advice from DCC archaeology department].**

Period for compliance:

Six months from the date the notice comes into effect.

Issue a stop notice to prohibit construction works.

A stop notice may only be issued together with an enforcement notice. It prohibits the continuation of the specified activity and is used where the effects of the unauthorised activity (in this case the construction works) are seriously detrimental to the amenities of the area or adjoining occupiers. It does not immediately come into effect.

Compensation is payable if the enforcement notice is quashed (other than by the grant of planning permission), where it is varied or withdrawn or the stop notice is withdrawn.

If an enforcement notice is to be issued and construction works are continuing, the issue of a stop notice is a recommended course of action to control those works and safeguard local amenities.

Issue a temporary stop notice to prohibit construction works.

A temporary stop notice is valid for 28 days only and requires the breach to immediately cease. It does not require that an enforcement notice be served with it. It is intended to allow the Local Planning Authority time to consider whether to serve an enforcement notice.

Compensation may be payable if the activity has planning permission, is permitted development, if it is subsequently found to be lawful or in some circumstances if the temporary stop notice is withdrawn. It is not considered that any of these apply.

It is not recommended in this instance as this report considers enforcement options available if planning permission is refused.

Contact for any more information

Daniel Rance, Principal Planning Officer
01884 234929

Jenny Clifford, Head of Planning and
Regeneration 01884 234346

**Background Papers
File Reference**

Planning Committee 13th January 2016
15/01034/MFUL

Circulation of the Report

Cllrs Richard Chesterton
Members of the Planning Committee

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Application No. 15/01034/MFUL

Plans List No.

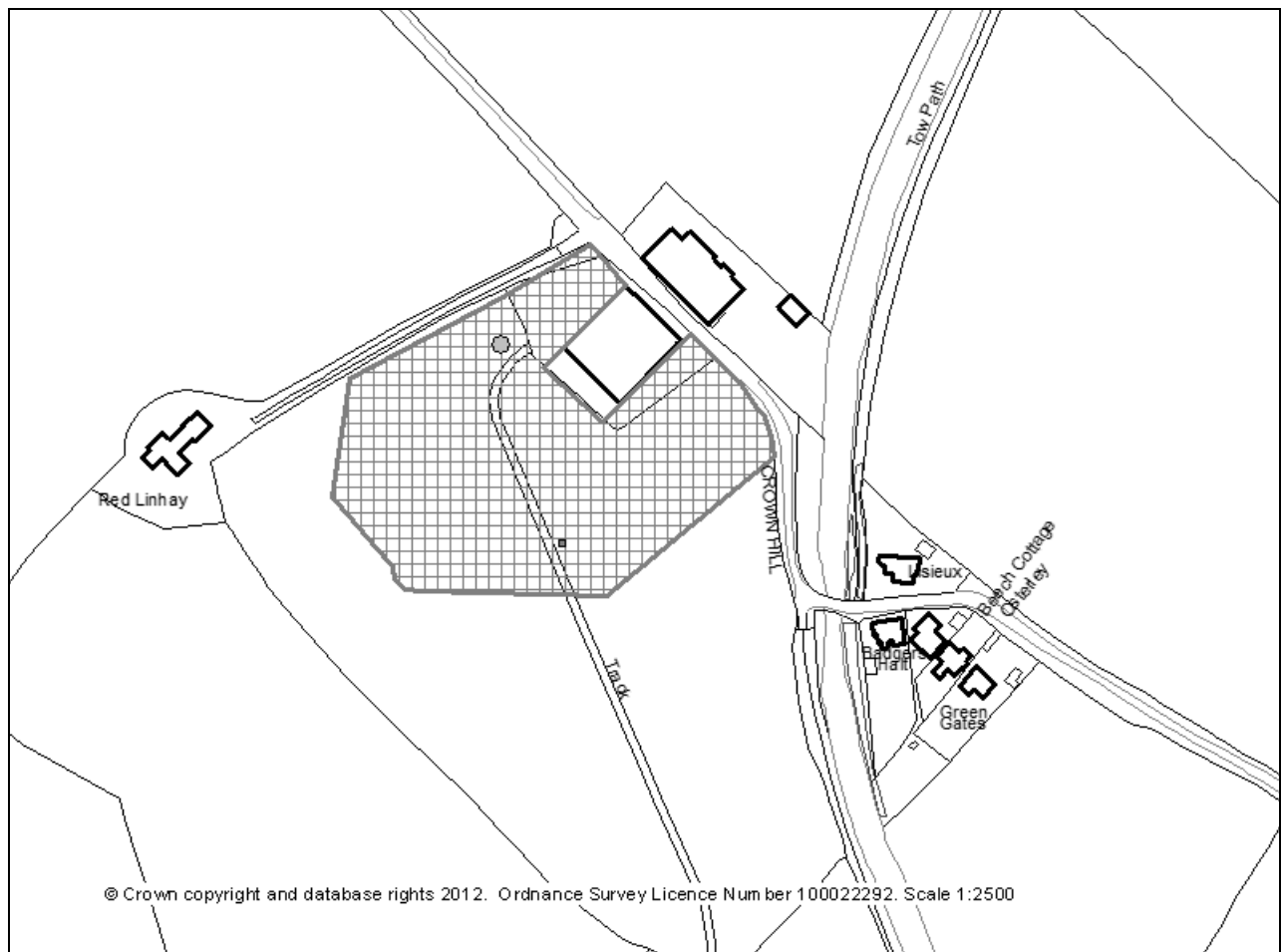
Grid Ref: 299621 : 112764

Applicant: Mr David Manley

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

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

Date Valid: 17th July 2015



Application No. 15/01034/MFUL

RECOMMENDATION

Grant permission subject to conditions.

PROPOSED DEVELOPMENT

The proposed development is for a revised scheme for the installation of an anaerobic digester (AD) to generate 500kW of electricity converted from biogas via a combined heat and power unit (CHP). Some of the power will be used to run the site with the remainder exported to the National Grid. The site was a pasture field which formed part of the Hartnoll Farm agricultural holding accessed via the existing access on Crown Hill and is adjacent to existing agricultural buildings associated with Hartnoll Farm. Works have already commenced on site and this application is to regularise the proposed scheme following approval under 13/01605/MFUL.

The current proposal is not to consider if the principle of the AD plant is appropriate as this has been established previously, but to consider if the changes to site layout and additional items within the site which vary the current scheme from that previously approved under 13/01605/MFUL are acceptable. The scheme is essentially the same as that approved under 13/01605/MFUL. A synopsis of the changes proposed is attached as **Appendix 1**.

The AD plant comprises:

- A digester tank: height 8m, diameter 25m and capacity 3926 cubic metres with a gas collection dome above of height 5.5m. overall height from excavated site is 13.5m
- A digestate storage tank: height 8m, diameter 25m and capacity of 3926 cubic metres.
- A buffer tank: height 4m and diameter 9m.
- A control cabin housing the control panels for the anaerobic digester: 12 long, 3m wide and 2m high
- 1 x CHP unit (combined heat and power unit): 13.5m long and 3 m wide contained in an acoustic box including a chimney of 7m
- Control building 14m long x 7m wide x 3m high
- Gas compressor building 8m x 3.5m x 3m high
- Transformer, HV switch each 2.5m x 2.5m x 2.4m high
- LV panel 12m x 2.5m x 2.5m high
- Office 13.5m x 2.5m x 2.5m high
- Solids feeder 9m x 4m x 4m high
- 2 x Dryers 43m x 6m x 3.5m high
- Gas flare 6m x 3m x 4.8m high
- A separator frame and clamp: 9m long, 7m wide and 5.5m high
- Feedstock clamps comprising 2 bays: 60m x 30m x 4m high proposed to hold material
- A concrete yard for vehicular movements
- A GRP kiosk to house metering circuit breaker

The buffer tank, separator frame and clamp and solids feeder would be contained within a bund recessed into the ground by 2.0m metres. The digester tank and digestate store will be set a further 2.5m below these. The overall area covered by the plant will be approximately 1.23 hectares, with an additional area to accommodate planting for screening.

The AD will be fed by approximately 14,231 tonnes of feedstock per annum comprising the following as set out in the Odour Management Plan:

- Cow slurry - 2,000 tonnes
- Farmyard manure - 1,000
- Chicken manure - 2,000 tonnes
- Maize - 4,444 tonnes
- Grass Silage - 2981 tonnes
- Beet - 1500 tonnes

No animal by-products will be processed at the plant. The manures will be sourced from Swanhams Farm located approximately 4.25 km east of Halberton and Rix Farm located immediately north of the A361 between Tiverton and Bolham. The maize, grass and beet silage will be sourced from a number of local sites named by the applicant as Hartnoll Farm, Manley Lane, Maunders and 'Plots' all located within approximately 3km of the AD site and Wellington Farm which is located approximately 20km away.

The resulting products from the AD plant are digestate, heat and biogas which generate electricity via the CHP. The heat will be used on site to heat the digester and control cabin. The digestate will be in two forms, liquid and solid and used as a soil conditioner/fertiliser on land at Hartnoll Farm and Manley Lane. The electricity will be used to run the plant itself and the rest exported to the National Grid.

Summary of changes from the previously approved scheme

- 1 The site has increased in size from 0.91 hectares to 1.23 hectares the majority of the area is the increase to the length of the silage units and a larger bunded area. The site now extends further to the South/South-east by 36 metres to the internal base of the bund and 46 metres to the outside edge of the bund and is therefore closer to the Grand Western Canal.
- 2 The main AD structures have re-aligned to a North South axis from an East West axis
- 3 The silage clamps have reduced in number from 4 to 2 but have increased in size and capacity from 7844 cubic metres to 7200 cubic metres. This is a decrease in capacity of 644 cubic metres as shown in **appendix 1**
- 4 Re-location of the digester tank to the site directly to the south of the AD unit which is located in approximately the same point as the previous approval 13/01605/Full
- 5 The digester tank is slightly larger an increase from 3409 cubic metres to 3927 cubic metres an increase of 518 cubic metres (sizes shown in the appendix 1).
- 6 Buffer tank is 1m higher than the approved sizes shown in the **Appendix 1**.
- 7 CHP unit is 1.5m longer and 0.4m wider, but of the same height.
- 8 Additional structures are Control Building, Gas compressor building, Transformer HV and LV, Office Building, 2 x Dryers. All sizes set out in Appendix
- 9 Additional Information Submitted Historic Environment site assessment, Landscape response (East Devon), Ground water Vulnerability Plan, additional Noise Assessment Document

APPLICANT'S SUPPORTING INFORMATION

Waste Minimisation Statement

Odour Management Plan (dated March 2014)

Appendix 10 (showing Swanhams farm and Rix Farm - chicken, farmyard and slurry source sites)

Photograph (to illustrate GRP kiosk to house HV metering circuit breaker)

Nutrient Management Plan

Manure Management Plan

Written Scheme of Investigation for Archaeological Watching Brief

Landscape and Visual Impact Assessment

GroundSure - Flood Insight report

Pre-Development Flood Risk Assessment

Extended Phase 1 Habitat Survey Report

Envirocheck Report

Volume 1 - Supporting Information (Post Submission Amended) - February 2014

Volume 2 - Process Information - November 2013

Transport Statement - October 2013

Volume 3 - Environmental Review (post Submission Amended) - February 2014

Historic environment site assessment

Landscape response (East Devon)

Ground water Vulnerability Plan

Environmental Noise Assessment

PLANNING HISTORY

08/00282/PNAG Prior notification for the erection of an agricultural storage building - NO OBJECTION MARCH 2008

12/00585/PNAG Prior notification for the erection of an agricultural storage building - PRIOR APPROVAL REQUIRED - LETTER SENT MAY 2012 - NO OBJECTION

12/00630/FULL Erection of an agricultural livestock building - PERMIT JUNE 2012

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

13/01605/MFUL/NMA Erection of a 500kW anaerobic digester and associated works with 4 silage clamps - Non Material Amendment to amend the route of a buried high voltage cable - PERMIT JULY 2014

DEVELOPMENT PLAN POLICIES

Mid Devon Core Strategy (Local Plan 1)

COR1 - Sustainable Communities

COR2 - Local Distinctiveness

COR5 - Climate Change

COR18 - Countryside

Mid Devon Local Plan Part 3 (Development Management Policies)

DM1 - Presumption in favour of sustainable development

DM2 - High quality design

DM5 - Renewable and low carbon energy

DM6 - Transport and air quality

DM7 - Pollution

DM8 - Parking

DM22 - Agricultural development

DM27 - Development affecting heritage assets

CONSULTATIONS

ENVIRONMENTAL HEALTH - 30th July 2015

Contaminated Land - no objections

Air Quality - no objections

Drainage - no objections

Noise and other nuisances - Further information has been asked for before I can make a recommendation.

Health and safety - no objections.

9th September 2015

Contaminated Land - No objections.

Air Quality - No objections

Drainage - No objections.

Noise and other substances - As per previous comments.

Housing standards - N/A.

Licensing - N/A.

Food Hygiene - N/A.

Private Water Supplies - N/A.

Health and Safety - Health and Safety Executive enforced premises - no objections.

29th September 2015

I have reviewed the noise assessment but there is no new information in relation to night-time vehicle movements and noise levels. Therefore, my comments are as follows:

It has been indicated that at peak times deliveries may take place throughout the night-time, in essence a 24 hour operation. The noise assessment has not taken this into consideration. The assessment of the site during night-time hours must take into account vehicle movements, reversing

alarms and site deliveries. These vehicle movements will be a significant contributor if not the greatest contributor to the overall night-time noise level.

Until this information has been provided I cannot support this application and therefore I would recommend refusal.

5th October 2015

In response to the applicants comments please find detailed below my recommendation:

In the original application no information was provided detailing that deliveries could take place 24hrs a day during peak times. No information has been provided quantifying how long peak times may continue for.

I still maintain that during peak times (especially during night-time hours) the operation of this site will be dominated by vehicle movements and deliveries possibly including reversing alarms and these will be a significant contributor if not the greatest contributor to the overall night-time noise level.

Therefore, I recommend that a new BS4142 assessment is carried out. The assessment should be carried out and produced by a suitably qualified Acoustic Consultant to the standards laid out in BS 7445: Part 1 2003 'Description and Measurement of Environmental Noise' and should be carried out in accordance to BS4142: 2014 'Methods for Rating and Assessing Industrial and Commercial Sound'.

The report must demonstrate that:

- o the source/s of noise are fully understood and quantified, paying particular attraction to night time noise levels, site vehicle movements, deliveries and if applicable, audible reversing alarms
- o all nearby noise sensitive receptors have been identified
- o the impact on any receptors has been determined with reference to noise standards
- o Noise mitigation measures have been identified where necessary

6th October 2015

I consider that insufficient information has been submitted with the application. Due to the close proximity of the 3 neighbouring residential properties a specific Odour Management Plan along with an Odour Impact Assessment is required. An Odour Impact Assessment is necessary to establish the potential implication of odour generated from the storage of slurry and manure upon these neighbouring residential properties. The assessment would detail the following;

- a. Level of odour generated by a slurry and manure storage facility as the odour emission rate of OUE m-2s-1 (odour units per square metre per second).
- b. Local meteorological data with particular reference to wind direction.
- c. Distance and orientation to neighbouring amenity areas.
- d. Production of modelled odour levels at neighbouring amenity areas at the 98th percentile odour level (OUE m-3) in relation to an odour assessment criterion of 3 OUE m-3.

To ensure that the well-being of the community is safeguarded while maintaining an efficient and viable farming industry a minimum protective distance of 200m will normally be required unless an effective treatment system which reduces odour is going to be used.

Independent evidence must be provided to help demonstrate that effective treatment measures could be put into place and that they will successfully mitigate against the possible nuisance that might arise as a result of odour from the stored slurry. Only in situations where the effectiveness of the mitigation measures can be demonstrated will any siting of a slurry store within 200m of residential properties be recommended for approval.

In the absence of an Odour Management Plan and an Odour Impact Assessment or details with regards to any other mitigation measures I would have to take the view that the operation of a slurry store in a location so close to residential properties would adversely affect the residential amenity of these properties and therefore, I would recommend that the application is refused on the basis of odour nuisance.

Contaminated Land - No objections.

Air Quality - No objections.

Drainage - No objections

Noise and other substances - It has been indicated that at peak times deliveries may take place throughout the night-time, in essence a 24 hour operation. The noise assessment has not taken this into consideration.

The assessment of the site during night-time hours must take into account vehicle movements, reversing alarms and site deliveries. These vehicle movements will be a significant contributor if not the greatest contributor to the overall night-time noise level.

Until this information has been provided I cannot support this application and therefore I would recommend refusal.

Housing standards - No comments.

Licensing - N/A.

Food Hygiene - N/A.

Private Water Supplies - N/A.

Health and Safety - Health and Safety Executive enforced activity - No objections.

17th November 2015

Recommended noise Conditions

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

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

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

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

*(From the noise data supplied)

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

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

2. It is recommended that a planning condition is applied stipulating that once the plant is fully operational, the operator provides a further noise assessment demonstrating that the screening is adequate and provides enough protection to ensure that the typical minimum background sound level 22dB (LA90 15min) is not breached from the operation of the plant.

This assessment must be submitted to the planning authority within 3 months from the completion of the AD unit.

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

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

Where the assessment information confirms that the noise levels from the operation of the plant are above the typical minimum background sound level 22dB (LA90 15min) within any amenity areas 3.5m from the façade of any noise sensitive properties, the operator shall carry out works to mitigate such effects to comply with the noise condition.

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

Relevant Guidance

The potential impacts of noise from the proposed anaerobic digester, associated plant and vehicle movements have been assessed against the existing noise environment surrounding the development and assessed with reference to the following guidance:

National Planning Policy Framework

The 'National Planning Policy Framework' (NPPF) is the current planning policy guidance. It sets out the Government's planning policies for England and how these are expected to be applied. However, the NPPF does not contain any methodology for objective assessment. So we must therefore consider the suitability of each proposed scheme, based on evidence such as the noise impact assessment that has been submitted with the application.

In terms of noise paragraph 123 of the NPPF details that planning decisions should aim to:

Avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development;

Mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions;

Recognise that development will often create some noise and existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established; and

Identify and protect areas of tranquillity which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason.'

With regard to 'adverse impacts' the NPPF refers to the 'Noise Policy Statement for England' (NPSE), which defines three categories of effects, as:

'NOEL - No Observed Effect Level. This is the level below which no effect can be detected. In simple terms, below this level, there is no detectable effect on health and quality of life due to the noise.

LOAEL - Lowest Observed Adverse Effect Level. This is the level above which adverse effects on health and quality of life can be detected.

SOAEL - Significant Observed Adverse Effect Level. This is the level above which significant adverse effects on health and quality of life occur'.

The first aim of the NPSE states that significant adverse effects on health and quality of life should be avoided. The second aim refers to the situation where the impact lies somewhere between LOAEL and SOAEL, and it requires that all reasonable steps are taken to mitigate and minimise the adverse effects of noise. However, this does not mean that such adverse effects cannot occur.

The Planning Practice Guidance (PPG) provides further detail about how the effect levels can be recognised. Above the NOEL noise becomes noticeable, however it has no adverse effect as it does

not cause any change in behaviour or attitude. Once noise crosses the LOAEL threshold it begins to have an adverse effect and consideration needs to be given to mitigating and minimising those effects, taking account of the economic and social benefits being derived from the activity causing the noise. Increasing noise exposure further might cause the SOAEL threshold to be crossed. If the exposure is above this level the planning process should be used to avoid the effect occurring by use of appropriate mitigation such as by altering the design and layout. Such decisions must be made taking account of the economic and social benefit of the activity causing the noise, but it is undesirable for such exposure to be caused. At the highest extreme the situation should be prevented from occurring regardless of the benefits which might arise.

Using the noise data provided in the applicants noise assessment it is perceived that there will be virtually no increase in the current background acoustic environment from the operation of the AD unit as long as suitable screening has been added to provide a 24dB reduction across the octave band (this 24dB reduction is a figure given by the applicant). To ensure that the noise has no adverse effects so that it crosses from the lowest observed adverse effect level boundary to starting to have an adverse effect, consideration needs to be given to mitigating and minimising these effects.

It is recommended that a planning condition is applied stipulating that once the plant is fully operational, the applicant provides a further noise assessment demonstrating that the screening is adequate and provides enough protection to ensure that the typical minimum background (given by the applicant) sound level 22dB (LA90 15min) is not breached from the operation of the plant

It is likely that the noise from the anaerobic digester and associated plant could slightly affect the acoustic character of an area. However, conditioning the site to ensure that noise level are no greater than 5dB in excess of background sound will offer a good degree of protection to local residents and local amenities to the extent that the development should not offer any perceived change in quality of life and therefore, at this level no additional measures beyond the recommend planning conditions are required to manage the acoustic environment from the operation of the site.

BS 8233: 2014 'Guidance on Sound Insulation and Noise Reduction for Buildings'

This document provides recommendations for the control of noise in and around buildings. BS8233: 2014 recommends the design criteria for internal noise levels within residential properties. The standard recommends noise limits for:

Bedroom night-time	30dB (LAeq 8hr).
Bedroom day-time	35 dB (LAeq 16hr)
Living room	35 dB (LAeq 16hr)
Dining room	40 dB (LAeq 16hr)

The suggested planning conditions would ensure that the noise levels within neighbouring residential properties are well below the BS8233 recommended levels.

WHO Night Noise Guidelines for Europe, 2009

The World Health Organisation's (WHO) Guidelines for Community Noise recommends that to avoid impacts on health including interruptions to sleep, an internal night-time limit of 30 dB LAeq avoiding peaks of 45 dB(A).

The WHO guidelines provide an additional criterion for outside noise levels at night-time at 1m from the facades of living spaces. Therefore, the recommendation for night-time LAFmax noise levels presented in the WHO guidelines should be conditioned to offer protection from instantaneous noise events from the site. It is generally accepted that the effects of an open window (opened in a typical manner for ventilation) will achieve a decibel reduction of around 10 dB. Taking this into consideration, it is recommended that a planning condition is applied specifying the Maximum Instantaneous Noise Levels to offer a greater level of protection to local residents.

The suggested planning conditions ensure that the noise levels within the neighbouring residential properties are well below the recommended levels set within the WHO's Night Noise Guidelines and that a greater level of protection is offered to protect the evening and night-time noise environment.

4.6 BS4142:2014 Methods for Rating and Assessing Industrial and Commercial Sound

BS 4142 describes a method of determining the level of a noise of an industrial nature, together with procedures for assessing whether the noise in question is likely to give rise to complaints from persons living in the vicinity. The methods described in BS 4142 use outdoor sound levels to assess the likely effects of sound on people who might be inside or outside a dwelling or premises used for residential purposes. This standard is applicable for the determination of ambient, background and residual sound levels for the purpose of assessing the sound of proposed, new sources of sound of an industrial and/or commercial nature and assessing that sound at nearby premises used for residential purposes.

BS 4142 sets the standard for assessing the likelihood of complaints based on the difference between the measured background level and the rating level of the sources under consideration.

The BS4142 assessment criteria is as follows:

Greater than +10dB

Likely to be an indication of a significant adverse impact, depending on the context

Greater than +5 dB

Likely to be an indication of an adverse impact, depending on the context

Less than +5 dB below

Lower the rating level is relative to the measured background level, the less likely it is that the sound will have an adverse impact. Where the rating level does not exceed the background level, this is an indication of the specific sound source having a low impact, depending on the context

The applicant has detailed that with suitable screening in place, noise levels from the operation of the plant will not go above the typical minimum background sound level for the site. It is recommended that a planning condition is applied stipulating that once the plant is fully operational, the applicant provides a further noise assessment demonstrating that the screening is adequate and provides enough protection to ensure that the typical minimum background sound level 22dB (LA90 15min) is not breached from the operation of the plant

Taking this into consideration, the application sits within the Less than +5 dB below criteria. As the rating level does not exceed the background level, this is an indication of the specific sound sources having a low impact of the surrounding environment. However, this does not take vehicle movements into consideration.

Further Suggested Mitigating Measures

Other mitigating measures may also be considered to control the emanation of vehicle movement noise to surrounding residences by adopting a mindful approach to operational procedures. These include:

All tractor drivers delivering AD feed stocks/waste collection etc. must have an automatic opening device for the gate. The gate should be operated prior to the driver reaching the entrance. The purpose of this is to reduce the time vehicles will have to sit at the site entrance thus reducing the noise impact on new house.

No vehicles to leave the engine idling' within the vicinity of the site entrance.

Quiet please signs, to be placed within the vicinity of the site entrance.

On site vehicle speed of 6.2 mph (10kmph)

Applicants Averaged Noise Data results Night-time and Daytime

Night-time	Background sound level (LA90 1hr)	Residual sound level (LAeq 1hr)	Daytime	Background sound level (LA90 1hr)	Residual sound level (LAeq 1hr)
11.00pm-12.00am	27.3	35.5	7.00am – 8.00am	35.8	42
12.00am – 1.00am	23.8	29.9	8.00am – 9.00am	37.9	46.8
1.00am – 2.00am	25	31	9.00am – 10.00am	37.3	48
2.00am – 3.00am	24.4	27.8	10.00am – 11.00am	35.8	42
3.00am – 4.00am	25.4	38	11.00am – 12.00pm	35.8	45
4.00am – 5.00am	27.1	30.1	12.00pm – 1.00pm	No Data	No Data
5.00am – 6.00am	28.9	31.6	13.20 – 14.20pm	36.7	40.9
6.00am – 7.00am	33.1	34.7	14.20 – 15.20pm	37.8	44.1
			15.20 – 16.20pm	38	42.4
			16.20 – 17.20pm	37.6	42.4
			17.20 – 18.20pm	37.7	42.8
			18.20 -19.20pm	34.5	40.8
			19.20 – 20.20pm	33.6	38.4
			20.20 – 21.20pm	33.2	43.5
			21.20 – 22.20pm	31	34.6
			22.20 – 23.00pm	28.4	34.8
Averaged Night time	28 (LA90 1hr)	33.5 (LAeq 1hr)	Averaged Daytime	36.1 (LA90 1 hr)	43.2 (LAeq 1hr)

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

2 It is recommended that a planning condition is applied stipulating that once the plant is fully operational, the operator provides a further noise assessment demonstrating that the screening is adequate and provides enough protection to ensure that the typical minimum background sound level 22dB (LA90 15min) is not breached from the operation of the plant.

This assessment must be submitted to the planning authority within 3 months from the completion of the AD unit.

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

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

Where the assessment information confirms that the noise levels from the operation of the plant are above the typical minimum background sound level 22dB (LA90 15min) within any amenity areas 3.5m from the façade of any noise sensitive properties, the operator shall carry out works to mitigate such effects to comply with the noise condition.

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

23rd November 2015

Contaminated Land - no objections to this proposal

Air Quality - no objections to this proposal

Environmental Permitting Environment Agency A1 Permit required

Drainage - no objections to this proposal

Noise & other nuisances - recommend approval with conditions. For conditions please see below*

Housing Standards - No Comments

Licensing - No Comments
Food Hygiene - N/A
Private Water Supplies Not applicable
Health and Safety - no objections to this proposal
*Recommended noise Conditions

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

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

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

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

*(From the noise data supplied)

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

NATURAL ENGLAND –
4th September 2015 - No comments

28th September 2015 - Natural England has previously commented on this proposal and made comments to the authority in our email sent 03 September 2015.

The advice provided in our previous response applies equally to this amendment although we made no objection to the original proposal.

Should the proposal be amended in a way which significantly affects its impact on the natural environment then, in accordance with Section 4 of the Natural Environment and Rural Communities Act 2006, Natural England should be consulted again. Before sending us the amended consultation, please assess whether the changes proposed will materially affect any of the advice we have previously offered. If they are unlikely to do so, please do not re-consult us.

11th November 2015

Natural England has previously commented on this proposal and made comments to the authority in our letters dated 03 September 2015 & 25th September 2015.

The advice provided in our previous response applies equally to this application although we made no objection to the original proposal (15/01034/MFUL).

ENVIRONMENT AGENCY – 1st September 2015

Whilst we have no objections to the application subject to the site obtaining and complying with the terms of an appropriate Environmental Permit, we do however have the following areas of concern with regards to this application which are as follows:

Noise and odour from the site: The site is very close to a number of sensitive receptors who could be adversely impacted by the site operations. To this end we have requested the applicant supply the Environment Agency site specific Odour Management Plan and Noise & Vibration Management Plans. These will need to be agreed with the Agency before the site can commence operations.

We are concerned about the possible impact on the Grand Western Canal due to its proximity to the proposed site. We feel the applicant needs to demonstrate the operation of the plant will not adversely impact this widely used local facility.

Currently we do not have sufficient details with regards to the site's proposed internal drainage scheme. Additional details have been requested from the applicant with regards to the sites proposed

drainage design to ensure there is appropriate separation and containment of clean and dirty surface water.

Additional details are required from the applicant to ensure the sites silage clamps and associated drainage system complies with the requirements of The Water Resources (Silage, Slurry and Agricultural Fuel Oil) (England) Regulations 2010 as amended.

Additional detail is required with regards to the site proposing to import digestate from other AD plants, specifically why the site wishes to accept this waste and how and where the site proposes to store this waste material. The need for this material and its waste status may also impact upon the waste status of the digestate the site produces which in turn could impact upon the sites ability to spread and disposed of the digestate they produce.

With the increase in the proposed area of the site the applicant needs to provide additional details with regards the external containment bund around the outside of the site to ensure the bund is of an appropriate construction and has sufficient capacity to fully contain the site in the event of the AD plant failing.

28th September 2015 - No comments.

11th November 2015

While we have no objections to the proposal, it is important that the site complies with the agreed Noise Management Plan (NMP) that has been agreed as part of the permit. The submitted documents (NWP) have been sent to our Permitting Officer to ensure there is consistency between the planning application and the permit. If we have any additional comments we will contact you.

26th November 2015

I refer to my response dated 11th November 2015, in the interests of clarity, I can confirm the Permit has not been granted yet, it is currently under consideration. My letter inferred that a Permit had been issued.

HALBERTON PARISH COUNCIL – 13th August 2015

Recommend refusal of this application based on the following grounds:

The application would have a significant and detrimental effect on the Grand Western Canal Country Park due to it now being in closer proximity. The canal towpath, which is a public footpath and part of the Sustrans National Cycle Way, actually crossed Crown Hill Bridge. From here, the massive industrial unit was visible. Concerns centred around the smell and noise which would emanate from the application site detracting from users enjoyment of the amenity.

The previously approved application provided that there would be less vehicle movements once the AD plant was in operation than for normal farming operations. This fact was borne out by Devon County Council's traffic assessment comments, dated 23.01.2014. It was understood that the new application included two CHP units, each producing 500kw. The feedstock consumption on the approved application was for 9,230 tonnes. However, the new application showed 24,374 tonnes. It was considered that this would result in increased traffic movements along the narrow lanes including the use of the difficult junction onto the main road.

Parishioners were extremely concerned about these issues and the increase in vehicle numbers travelling through the village. A condition of the previous application stipulated that no chicken manure would be stored on site. In the new application, information was given to the Environment Agency ('EA'), stating that chicken litter would be stored on site. This undoubtedly would affect the quality of life for local residents and the many users of the Grand Western Canal Country Park.

In the planning application, it stated that two new dryers would be used to dry digestate but in the submission to the EA, the dryers would be used to dry wood chips/grain. It was believed that this would also necessitate much more traffic movement, as well as noise and possibly dust. Parishioners felt that the photographs in the application were very misleading, as they appeared to try and minimise any impact on the local area.

9th September 2015

The decision agreed at the Parish Council's Planning Committee Meeting of 11th August remain, with the proviso that the Parish Council be able to submit any additional comments within any permitted extended timescales of Mid Devon District Council.

19th October 2015

The Parish Council would send a statement to Mid Devon District Council to be read out at MDDC's Planning Committee Meeting, at which this application is to be discussed, in view of there being nobody available in person to represent the Parish Council.

27th November 2015

The previous comments submitted in respect of this application by the Parish Council remain unchanged.

WILLAND PARISH COUNCIL - 17th August 2015

Willand Parish Council offered no observations on the original application as it was not likely to directly affect the Parish. That position has been reconsidered in the light of the revised application and what is now visible on the site.

We have concerns that the revised scheme will have some elements of the development closer to and detrimentally impacting on the benefits of the facilities of the canal walks and picnic areas. There will now be additional structures and these together with recently approved farm buildings will have a cumulative detrimental negative impact on the countryside views even after taking account of the proposed landscaping and screening. The size of the site is also to be increased.

There are concerns that the current application has no transport implications report. This site, and the recently approved one at Willand, will undoubtedly impact on transport provision when slow and large vehicle combination movements on the roads in the area are taking materials to the sites. Storage provision and quantities of some of these materials brought to site is also unclear.

Although this submission is made to meet the published target date for consultation as there appears to be more information needed to make an informed decision the Parish Council would wish to reserve the right to make additional representations when the further information is available in the public domain.

14th September 2015

Willand Parish Council discussed the revised scheme at a meeting on 10 September and conclude that the additional documents do nothing to alter the concerns and observations expressed in the letter of 16 August 2015.

The Transport Statement submitted is dated October 2013 which is well before the current revisions, which suggest an increase in capacity of output and a considerable increase in tonnage of imported material and thus more vehicle movements. These increases are consistent with the experience of other sites operated by this company in the area. Current information and areas from which materials are to be brought to this plant and others indicate that it will be virtually impossible to gauge what materials will be coming from where to which plant.

The email from the Planning Officer dated 28/08/2015 raises a number of concerning issues as to the veracity of the information being provided to support the application. On the information available refusal is recommended with suitable robust enforcement action.

15th October 2015

Willand Parish Council note nothing in this additional information to alter its original opposition and concerns as to what is happening at this site. Their concerns in relation to increased traffic flow on the surrounding roads over a potential wide area are heightened by the latest information.

27th November 2015

Willand Parish Council discussed the additional information regarding noise assessment at the meeting on 26 November. There is nothing in this additional information to alter its original opposition and concerns as to what is happening at this site. They questioned as to whether the latest Highways response addressed the concerns of objectors.

The Parish Council also expressed increased concern in relation to the apparent breach of the original planning application, and the lack of enforcement by MDDC.

BURLESCOMBE PARISH COUNCIL – 3rd August 2015

Burlescombe Parish Council discussed the application at their planning committee on Monday 24th July 2015 and have not altered their opinions from the initial application and object to this application. The vote was unanimous and the Councillors were in agreement with the Friends of the Grand Western Canal that it is not in keeping for the rural country park which depends on tourism. In addition there will be increased vehicle activity along minor roads.

8th September 2015

Burlescombe Parish Council object unanimously to this application.

24th September 2015

No further comments

DEVON & CORNWALL POLICE AUTHORITY

20th July 2015 - No comments.

24th August 2015 - No comments.

NATURAL ENGLAND - 29th July 2015 - No comments

SOUTH WEST WATER –

24th September 2015 - No objection

10th November 2015 - No comment upon the further additional information.

HIGHWAY AUTHORITY – 21st September 2015

The above development is a resubmission of a previous consented development with the siting within the site amended and an increase in the drying capacity of the development. The proposed application does not propose to increase feedstock or change the accepted traffic movements from the original application, as a result of which the Highway Authority recommended that the site be considered as standing advice by the Planning Authority with the only change being that of siting.

The application transport statement remains unaltered from that of the existing permission and no increase in traffic is predicted. The Highway Authority in its previous comments required the developer to provide suitable visibilities for its access on to Crown Hill and the provision of a passing bay. The applicant has fulfilled this obligation.

The application and transport statement refers primarily to average movements and as such the analysis shows this would give an overall reduction in vehicle numbers on the extended network. It should be noted that these vehicle movements exist on the wider network already but may have alternative end destinations to that of the AD plant. Notwithstanding this, the Highway Authority recognised that there was an increase in seasonal activity with feed stocks to this particular destination over Crown Hill. The Highway Authority considered that the provision of the additional passing opportunity would provide for adequate inter-visibility between passing opportunities between the site, the bend in Crown Hill, and its junction and given the small increase in seasonal traffic this would be acceptable.

In its decision to have a separate bay to the existing wider section, the Highway Authority felt this necessary to maintain safe entry and exit to the field gate. Having viewed the completed bay, the remaining separation, and in consideration of the open nature of post and rail fence adjacent to the gate, it can be seen that satisfactory visibility can be gained from the gate if the residual hedge and verge were to be removed, and the new bay and existing widening were to merge. This would be

beneficial to the movement of traffic on the bend. However this is not conditional given compliance with the existing requirements and would be a matter for the applicant to consider. The Highway Authority would advise and encourage the applicant to undertake this work which would benefit their own operation as well as the general public providing a longer section of highway with a carriageway width of 5.5 to 6.0 over the outer circumference of the bend which is sufficient under Manual for Streets for 2 commercial vehicles to pass.

Concerns over a possible expansion to a larger output capacity have been raised but this is a matter for a future application and the Highway Authority is obliged to comment on the application before the committee, nonetheless, should such an application be submitted, the Highway Authority would need to consider the further increase in traffic and seek additional mitigation if found necessary at that time.

Recommendation:

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

26th November 2015

I am in receipt of a number of emails from a resident with regard to the above planning application and in particular highway issues, I have also received emails with regard to recent deliveries to the site through Halberton.

Much of the concern relates to the capacity of the silage clamps and the resident indicating that the size would increase by 75%. I confirm my conversation with the planning officer and that the size increase is in the order of only 2% and not the 75%. However, comments of 26th November states that there is a silage clamp size increase of 2%. This is incorrect. It is a reduction of 8.9%. This has been conveyed to DCC highways

I can also confirm that having read through the documentation that applicant is indicating that the volumes of feedstock etc. do not change from the existing and consented AD plant therefore the traffic generated by the application will not change.

There is suggestion that the existing traffic generations of Red Linhay are incorrect and the access being used by the site was not the primary point of access therefore giving rise to significant traffic generation over Crown hill. The Highway Authority without definitive proof has to take the applicants figures at face value. Notwithstanding this the Highway Authority in its response to the previous application 13/01605 conditioned a passing bay, which has been constructed and provides inter visibility from the site access to the widening on the bend, and from the widening on the bend to the junction.

The Highway Authority comments dated 21st September 2015 remain relevant, however should the Local Planning Authority consider the assertion by members of the public to be correct about the use of the existing access and volumes of traffic identified by the applicant not to be the case then the advised improvements to the passing bay in my response to make a single localised widening of the bend could be conditional of any consent. The introduction of additional passing opportunity between the bend and the junction with post hill would be beneficial, but can only be conditioned if the residents assertions are proven, and the land required for the passing bay was within the applicants control. It is unclear if this land is in the control of the applicant albeit land under the control of Hartnoll farm. However if the applicants generations are considered acceptable then the improvements would remain advisory. The Local Planning Authority may wish to consider through its requirements for logs to be taken, that a future assessment of the traffic generation from the site be considered and should they be shown to be greater than that indicated by the applicant further improvements taken to address the potential conflicts by provision of additional passing opportunities and or road widening. This could form part of the traffic management plan and be agreed through a section 106 agreement.

The recent seasonal delivery of feedstock through Halberton has raised concerns, and residents have indicated volumes of between 60 and 200 tractor and trailer movements in a single day. Leaving aside Crown hill the volume of traffic on Post hill is measured at 7194 movements in a 24hour period of which there are 3.5% are HGV(300 movements)in a 12 hour period. In pure volume of movements 200(the worst figures given) represents 2% of the daily volume and in Capacity / planning terms is not considered significant, and not a material consideration. However the type of vehicle would be

classed as HGV and it represents a 60% increase on the daily volume. It is matter for the Local Planning Authority to consider if the short term seasonal generation of this figure is an amenity issue to the village, more over the Local Planning Authority should also take into consideration the granted consent for the new junction onto the A361 as part of the Tiverton EUE which would mitigate this movements with a more attractive route for suppliers which will avoid Halberton and through a conditional traffic management plan could form the preferred route.

Therefore given that this site already has a consent for the same size of AD plant, the variations in design not necessitating additional movements the Highway Authority have no further observations and the conditions previously required should be imposed and the inclusion of the traffic management plan is essential to the continued management of the site and reflect any future changes to feedstock availability and routing. Such a TMP should be subject to the appropriate legal agreements/ conditions.

HISTORIC ENVIRONMENT SERVICE - 24th July 2015

The consent granted for the earlier planning application (13/01605/MFUL) was conditional (Condition 6) upon a programme of archaeological work being undertaken for the impact of the development upon any heritage assets affected.

I would therefore advise that any consent granted for this current planning application should also be subject to the same worded condition, namely:

The development shall proceed in accordance with the approved document: Proposed development at Hartnoll Farm, Post Hill, Tiverton, Devon - Written Scheme of Investigation for an archaeological watching brief, version 1.4, received by the Local Planning Authority on 17th February 2014.

23rd September 2015

Despite the disturbance of the site by the on-going construction work, I would regard - because of the archaeological potential of the site - that it would be worth undertaking some intrusive archaeological investigations to determine whether prehistoric archaeological features run into the development site. This work would consist of the excavation of the archaeological controlled removal of topsoil in areas not already disturbed by the construction works, namely the areas to be occupied by the earth bunds and the tree planting areas. These works would enable the identification, investigation and recording of any archaeological features in these areas, and would be implemented through the application of an appropriately worded archaeological condition upon any consent that may be granted, such as:

"Within two months of the date of the consent granted for this development a programme of archaeological work shall be implemented in accordance with a written scheme of investigation submitted by the applicant or their agent and approved by the Local Planning Authority."

Reason

'To ensure, in accordance with paragraph 141 of the National Planning Policy Framework (2012) and the supporting text in paragraph 5.3 of the Mid Devon Local Plan Part 3: Development Management Policy DM27 (2013), that an appropriate record is made of archaeological evidence that may be affected by the development.'

I would regard the short period for the implementation of these work was appropriate given the already advanced state of development on the site.

GRAND WESTERN CANAL – 11th August 2015

The Grand Western Canal Joint Advisory Committee (GWCJAC) is opposed to this Application. It objected to the previous Application 13/01605/MFUL for an Anaerobic Digester (AD) installation at Red Linhay, Halberton citing the following areas of concern;

- The impact of the AD would be significant and detrimental to the amenity of the country park.
- The extra traffic movements caused by activity at the site would be beyond the capacity of the existing minor road to the site and be damaged by this extra usage.
- Possible dangerous conflict between traffic using the site travelling from the Ash Thomas direction over Crownhill Bridge and towpath users who have to cross the road to re-join the towpath. The GWCJAC called for the Planners to impose a Condition preventing this traffic approaching the site via Crownhill.

The GWCJAC remains very disappointed that 13/01605/MFUL was approved by the Planning Committee and carries forward the above points of objection to its objection to 15/01034/MFUL.

The 2014 decision to approve 13/01605/MFUL means that the GWCJAC has to accept an AD plant at that site but feels that it has to highlight and object to the expansion proposed since the expansion would exacerbate the negative impact on the acknowledged, valued canal amenity.

The GWCJAC has noted various matters below that support its objection.

The Applicant appears to be giving the impression that this new scheme is only a revision rather than an expanded project. (Work has started on site but appears to be following the new, revised scheme and has been issued with a Stop Notice.)

The current proposal differs from the approved scheme in the following ways;

- 1 0.32 hectare increase in the site area.
- 2 Site boundary closer to the Grand Western Canal and residential properties at Crownhill.
- 3 Re-alignment of the digester structures; and more importantly the addition of;
- 4 Containers for office provision.
- 5 Extra control apparatus and LV panel.
- 6 Gas compressors.
- 7 A second CHP unit (digestate gas-powered electricity generator)
- 8 Two Newtainer digestate driers (each of the smallest Newtainer unit consumes 7kw, presumably most of that electricity is to power its fans)
- 9 A gas flare.

Items 1 - 9 suggest indicate that the proposed installation will have a greater capacity.

Items 6 - 9 have the potential to increase noise nuisance and some light pollution.

The GWCJAC has several concerns arising from Applicant's Design and Access Statement;

Paragraph 21 draws attention to the consideration of specific Policies encompassed by the Mid Devon Core Strategy (Local Plan 1) adopted in July 2007 and the Local Plan Part 3 adopted in October 2013.

COR 2 - Local Distinctiveness.

This requires that the "Development will sustain the distinctive quality, character and diversity of Mid Devon's environmental assets." The proposed AD does not appear to comply with this since it will introduce an industrial-type installation into what the Applicant describes as open countryside. The proposed AD appears to be in conflict with most of the aspirations of COR2.

DM7 - Pollution

The Applicant does not seem to present enough information to judge the impact of noise and smell from the proposal and is dismissive of the need to provide mitigation. A Condition imposed on the previous approval of 13/01605/MFUL was that no chicken litter was to be stored on site. It has been noted that chicken litter is already being stored at Hartnoll Farm. When chicken litter has been stored for a few weeks and then moved it creates a great deal of smell.

The Environmental Health department has requested more information before making a recommendation. This concern suggests that a formal Environmental Impact Assessment should be undertaken.

DM27 - Development Affecting Heritage Assets.

The Applicant acknowledges that the site is in an area of high archaeological interest and is close to the Grand Western Canal but it appears that work to install an AD has started without any demonstration of adherence to the previous approved and agreed Written Scheme of Investigation.

Paragraph 26 states that

"The size of the new layout is as per the already approved layout and is directly related to the volume of feedstock to be processed at the site." This is at variance with Paragraph 7 which notes that the proposed site area is increased from 0.91 to 1.23 hectares.

Paragraph 30 contains the comment; "while there is a network of public byways, footpaths and bridleways in the surrounding area, the closest is the footpath in the vicinity of Ash Thomas, approximately 1.5km southeast of the proposed development."

The Grand Western Canal towpath (a Public Right of Way) passes about 60m to the south east of the site at its closest so that users of the picnic site and towpath will be first in line for any nuisance generated by the AD.

Paragraph 33 refers to the previously approved Transport Statement and suggests that the anaerobic digester will reduce the traffic volume visiting the site. The GWCJAC feels that this is untrue. In correspondence with the Head of Planning & Regeneration the Applicant states that he farms 900 acres and that the approved anaerobic digester would use the output from 426 acres. He concludes that he farms more than enough to provide for the anaerobic digester. I note that Hartnoll Farm is about 274 acres. If Hartnoll's entire acreage were to be used for the anaerobic digester then the output from 152 acres would need to be imported to the site by road transport. It is likely that part of Hartnoll's acreage would be consumed by stock rearing and this would increase the amount of imported material necessary to operate the anaerobic digester. The extra traffic movements that this will cause will create greater pressures on and damage to the minor roads leading to the site. The AD will produce about 5 tanker loads of digestate every day of the year. Some of this can be spread on Hartnoll Farm's 274 acres but it is unlikely that all of it can be used there. The excess will have to be exported by road to other locations.

The logical conclusion is that the AD will create more traffic on the minor roads leading to the site because it will need to both import and export substantial amounts of material in excess of what Hartnoll Farm can produce and absorb. Crownhill Bridge over the canal will be at risk of damage from the increased traffic. The Applicant has not suggested upgrading this road nor any means of protecting the bridge.

In conclusion, the Grand Western Canal Joint Advisory Committee calls for the Planners to reject this Application since its approval would damage the canal amenity due to the extra noise, odours and traffic that it will create. The extra importing and exporting of materials will create significant environmental damage negating its environmentally friendly aspirations.

REPRESENTATIONS

101 objections received, summarised as follows:

1. Concern regarding odour from the digester, silage clamps, unloading of feedstock materials on the site and the spreading of digestate
2. Concern about the volume of additional traffic movements - in particular through Halberton
3. Potential for congestion when considered alongside other local development e.g. Waddington Park, Junction 27, Tiverton Eastern Urban extension developments and general congestion in the local area
4. Visual impact for residents, on landscape of the wider area and in particular upon the Grand Western Canal
5. Odour impact upon local residents, the wider area and in particular the Grand Western Canal
6. Adequacy of the road access to site for large vehicles and lack of passing places
7. Noise from related vehicular movements on the highway and reversing alarms within the site especially if deliveries are made throughout the night
8. Risk of vermin being attracted to the site
9. Concern that this site will become an industrial estate - more appropriate location at Hartnoll Business Park
10. Water run-off from hard surfaced areas and the impact on existing localised flooding of the highway

11. Visual impact on Grand Western Canal and introduction of an uncharacteristic structure
12. Visual impact on the general locality and lack of proposed screening
13. Noise impact on peace of Grand Western Canal
14. Questioning figures which state that solid digestate will be used as animal bedding as there are no animal shelters on site
15. Questioning whether the stated existing figures relate to the existing site access or in fact the Hartnoll Business park access further east
16. Not seen as a farming activity
17. Loss of Grade 1 agricultural land which should be used for food production rather than energy crops
18. Impact on recent reconstruction works carried out to Grand Western Canal
19. Traffic impact on Blundells Road and Sampford Peverell
20. Impacts on Grand Western canal may reduce leisure use and important economic income from it as a visitor attraction
21. Impacts on local holiday let businesses
22. The impact of noise from the digester and machinery on local residents and stress it may cause
23. Risk of pollution incidents from digester materials, in particular risk of pollution of Grand Western Canal
24. Lack of an Environmental Impact Assessment
25. Unacceptable impact on amenity of nearby residents
26. Lack of related employment benefits
27. Impact on archaeological interests
28. Resulting traffic on Crown Hill conflicting with pedestrians, cyclist and other road users
29. Health hazard from transporting feedstocks on the public highway
30. Air pollutions
31. HGVs damaging road verges
32. Lack of need - inappropriate use of agricultural land
33. Lack of control over the applicant's stated feedstock source sites which cannot be secured by planning condition
34. Difficulty controlling odour and enforcing controls on operations
35. Flood risk on the site and adequacy of the proposed soak-away to deal with clean surface water
36. Potential for mess on roads
37. Impact upon wildlife of Grand Western Canal
38. Inappropriate location for a 'commercial waste processing plant'
39. Would be better sited nearer agricultural waste sources
40. Carbon footprint from materials being brought to site
41. Concern that this is a petrochemical industrial activity
42. Misleading visuals stitching photographs together and taken with vegetation in full leaf
43. Lack of information addressing points set out in national policy statements relating to energy and renewable energy
44. The use of land for energy crops with the environmental implications of this
45. The AD will encroach upon the green buffer between Tiverton and Halberton
46. Concern that the feedstock source sites will not produce enough material and so additional will need to be transported in from further away
47. Concern that the silage clamps may leak and cause a pollution incident impacting the Grand Western Canal
48. Preference for location of such a development at the Hartnoll Farm Business Park
49. Highlighting apparent inaccuracies in the photographs which are provided in the Landscape and Visual Impact Assessment.
50. Concern that despite statements to the contrary the site will include external storage of feedstocks.
51. The storage area is 75% larger in capacity by volume.
52. Habitats survey associated with EUE in 2014 contradicts the phase 1 habitat survey associated with the application

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The main issues in the determination of this application are:

1. Policy
2. Access and transport
3. Landscape and visual impacts
4. Impact on neighbouring residents
5. Drainage
6. Other impacts
7. Planning balance
8. Benefits

1. Policy

Mid Devon Core Strategy (LP1)

Policy COR1 seeks ensure that growth is managed so that development meets sustainability objectives, brings positive benefits, supports the diverse needs of communities and provides vibrant, safe, healthy and inclusive places where existing and future residents want to live and work.

Policy COR2 seeks to sustain the distinctive quality, character and diversity of Mid Devon's environmental assets, preserve Mid Devon's landscape character, and promote the efficient use and conservation of natural resources of land, water and energy.

Policy COR5 seeks to contribute towards targets for the reduction of greenhouse gas emissions and support the development of renewable energy capacity in locations with an acceptable local impact including, visual, on nearby residents and wildlife.

Policy COR18 seeks to control development in the open countryside and specifically permits renewable energy developments.

Local Plan Part 3 (Development Management Policies)

Policy DM1 states that the Council will take a positive approach to sustainable development and approve wherever possible proposals that improve the economic, social and environmental conditions in the area.

Policy DM2 requires development to demonstrate a clear understanding of the site and surrounding area and to take into account impacts on local character and landscapes, biodiversity and heritage assets, impacts on neighbouring uses and appropriate drainage solutions.

Policy DM5 states that proposals for renewable or low carbon energy 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 similar developments, within the parish or adjoining parishes.

Policy DM5 is designed to maximise renewable and low carbon energy development while ensuring that adverse impacts are addressed satisfactorily.

Policy DM6 requires development proposals that would give rise to significant levels of vehicular movement to be accompanied by a transport assessment to include mitigation measures.

Policy DM7 permits development where the direct, indirect and cumulative effects of pollution will not have an unacceptable negative impact on health, the natural environment and general amenity.

Policy DM22 permits agricultural development where it is reasonably necessary to support farming activity on the farm or in the immediate agricultural community, where it is located to minimise adverse effects on the living conditions of local residents and to respect the character and

appearance of the area, and where it will not have an unacceptable adverse impact on the environment or the local road network.

Policy DM27 Seeks to protect heritage assets and their settings, including Conservation Areas recognising that they are an irreplaceable resource.

Heritage Assets: Conservation Areas

Although the site is not within the conservation area associated with the Canal it is however considered appropriate to assess the structure and its impact on the conservation area. Objections to both this and the previous AD Plant have been received from the Grand Western Canal Joint Advisory Committee in terms of impact upon the canal.

128. In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary. Where a site on which development is proposed includes or has the potential to include heritage assets with archaeological interest, Local Planning Authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation.

129. Local Planning Authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this assessment into account when considering the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal.

131. In determining planning applications, local planning authorities should take account of:

- the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- the desirability of new development making a positive contribution to local character and distinctiveness.

132. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the assets conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable any harm or loss should require clear and convincing justification. Substantial harm to or loss of a grade II listed building, park or garden should be exceptional. Substantial harm to or loss of designated heritage assets of the highest significance, notably scheduled monuments, protected wreck sites, battlefields, Grade I and II* Listed Buildings, Grade I and II* Registered Parks and Gardens, and World Heritage Sites, should be wholly exceptional.

133. Where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset local planning authorities should refuse consent unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:

- the nature of the heritage asset prevents all reasonable uses of the site; and
- no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and
- conservation by grant-funding or some form of charitable or public ownership is demonstrably not possible; and the harm or loss is outweighed by the benefit of bringing the site back into use.

134. 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

National Planning Policy Framework (NPPF)

The NPPF has a presumption in favour of sustainable development which requires development which accords with the development plan to be approved without delay. It specifically requires planning to encourage the use of renewable resources, for example, by the development of renewable energy and requires significant weight to be placed on the need to support economic growth through the planning system.

The NPPF sets out core planning principles which include: seeking to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings, and; supporting the transition to a low carbon future in a changing climate, encouraging the reuse of existing resource and encouraging the use of renewable resources (for example by the development of renewable energy).

The NPPF suggests that developments should be located and designed where practical to accommodate the efficient delivery of goods and supplies.

The NPPF states that local planning authorities should not refuse planning permission for buildings or infrastructure which promote high levels of sustainability because of concerns about incompatibility with an existing townscape, if those concerns have been mitigated by good design (unless the concern relates to a designated heritage asset and the impact would cause material harm to the asset or its setting which is not outweighed by the proposal's economic, social and environmental benefits).

The NPPF supports the rural economy by promoting the development and diversification of agricultural businesses taking a positive approach to sustainable development in rural areas.

The NPPF requires a safe and suitable access to be provided to the site and for improvements to be made to the transport network which cost-effectively limit the significant impacts of development. It states that development should only be refused on transport grounds where the residual cumulative impacts are severe.

The NPPF states that local planning authorities should help increase the use and supply of renewable energies and design their policies to maximise renewable developments whilst ensuring that adverse impacts are addressed satisfactorily, including cumulative impacts. It states that applicants should not need to demonstrate the overall need for renewable energy and requires local planning authorities to approve applications where the impacts are (or can be made) acceptable.

The NPPF states that Local Planning Authorities should take into account the economic and other benefits of the best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality.

The NPPF states that planning policies and decisions should aim to mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions; recognise that development will often create some noise and existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established; and protect areas of tranquillity which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason.

Devon Waste Local Plan

Policy WPC1 (Sustainable Waste Management) states that planning applications for waste management facilities will only be permitted where they accord with the objectives of the Waste Local Plan and form part of an integrated and sustainable waste management strategy for the County. When assessing a planning application for a waste management facility, regard will be had to:

- (i) the waste hierarchy;
- (ii) minimising the transportation of waste;
- (iii) self-sufficiency; and
- (iv) whether any potential adverse effects on the environment which cannot be mitigated are outweighed by wider environmental benefits.

Recent Case Law considered by the Secretary of State

Appeal by Peel Environmental Services Ltd and Marshalls Mono Ltd: Fletcher Bank Quarry, Ramsbottom. APP/T4210/A/14/2224754 for the erection of an AD Plant.

This appeal has been considered by the Secretary of State under call in procedures of the approach of both the Secretary of State and are of assistance.

The Council had two reasons for refusal:

- The proposed development would constitute inappropriate development within the green Belt and does not meet exceptions.
- The proposed development is likely to result in a severely detrimental impact upon the residential amenity of nearby sensitive receptors result of odours arising through the operations and lack of accurate local micro climate data.
The intention is not to go through the case in detail but to give a very brief synopsis of the case.
- It was agreed that the approach to determination is by way of statute, the Framework, Development plans, and the golden thread running through planning is the presumption in favour of sustainable development.
- The planning history of the site was taken into consideration.
- Paragraph 109 of the framework confirms that existing development should not be 'put at unacceptable risk from or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability'. However there are no statutory limit levels for use in England.
- Noise this did not constitute a reason for refusal and was only briefly touched on.
- Highway capacity and safety although not a reason for refusal it was raised as an impact on the area. With respect to the scheme's generation of HGV trips it is evident that existing and proposed trips were taken into consideration when determine this case.
- Light pollution: although no substantive evidence was produced it was considered by the applicant and a proposal was put forward with more directional lighting and lower wattage.
- Conservation area reference was made to nearby conservation areas and the impact on them. It was considered there was no impact on the conservation area.
- Landscape impacts were considered in the round as opposed to the green belt.
- Economic impacts and tourism, public health and ecology were also considered.

The inspector commented upon the relationship between planning permission and the Environment Agency environmental permitting regime:

The inspector's conclusions:

"The Framework (NPPF) provides that planning decision makers should focus on whether the development itself is an acceptable use of the land, and the impact of the use rather than the control of processes or emissions themselves where these are subject to approval under pollution control regimes. The EA's planning application consultation response (PACR) confirms that the proposed activity would require an Environmental Permit from the EA before it can operate. The Framework indicates that planning decision makers should assume that these regimes will operate effectively."

"I have had regard to the views of my colleague...to the effect that as odour control forms part of the EA's regulatory responsibility, it is not something that is a material planning consideration unless the extent of regulation the EA can impose would not deliver a level of odour commensurate with the other surrounding land uses. However, in the case before me, whilst the EA's PACR indicates that the Permit would require the operator of the installation to minimise any potential impact upon the environment and human health through the use of appropriate abatement measures and management procedures, it points out that this does not mean there would be no impact from the

proposed activities. The IAQM guidance indicates that even with some residual odour and there any be some situations where such residual effects would make a development an unsuitable use of land at its proposed location".

The EA's guidance indicates that where all appropriate measures are being used but are not completely preventing odour pollution, a level of residual odour will have to be accepted unless it amounts to serious pollution that justifies suspension or revocation of the Permit."

Under these circumstances, I consider that, having regard to the extent of regulation the EA can impose, the likely residual effects of odour on nearby sensitive receptors is a material planning consideration".

The Inspector also gave useful consideration of appropriate planning conditions as follows:

"In my judgement, the following conditions would be difficult for the local planning authority to monitor and require an intolerable level of supervision. They are day to day operational matters more appropriately controlled through the Environmental Permit. Therefore I do not support them. They involve control over: the outside storage of waste; how many of the process building's vehicular access doors may be open at a time and for how long; as well as the performance and monitoring of the proposed odour control plant and emissions from the CHP plant."

He also concluded that seeking to prohibit HGV movements from using the local road network at certain times would be difficult to monitor and require an intolerable level of supervision and be impractical to enforce.

The Inspector considered the following conditions to be appropriate in the event permission was granted by the Secretary of State:

1. Removal from site and site restoration at the end of the temporary period.
2. Development to be carried out in accordance with the approved plans.
3. Limit the hours the material can be imported to /exported from the site by vehicles.
4. Loading / unloading of skips within the process building.
5. Limitation on noise levels from the facility including control on reversing alarms.
6. Limit number of HGV movements.
7. Implementation of a construction method statement including dust suppression measures.
8. Access improvements.
9. Retention of vegetation along the site boundary.
10. Control of materials for the external surfaces of the structures and external plant /machinery.
11. Landscaping.
12. Control use of external lighting.
13. Control finished floor levels of buildings and structures.
14. Adequate drainage.
15. Installation of sampling points to monitor impacts upon ground water quality.
16. Habitat enhancement and management plan.

It is to be noted that these conditions reflected the circumstances of the case in question. Conditions need to be tailored to the application and may not be appropriate in other instances.

2. Access and transport

The agricultural element of the business at Hartnoll Farm (Red Linhay) is predominantly arable farming comprising in the main of maize/corn production which is then exported from the farm. However two recent planning approvals for livestock have been approved adjacent to the site, these are to accommodate cattle associated with the farm at Red Linhay.

The application site is located approximately 1.5km west of Halberton and 5km east of Tiverton. The site is positioned south of Crown Hill. The applicant states that the site has been chosen for its proximity to the land which will provide the necessary feedstocks and the land over which the digestate can be spread.

The Transport Statement (TS) states that vehicles related to the proposed AD plant would travel to

and from the application site via Post Hill only. This is the same route taken by traffic generated by existing agricultural activities at Hartnoll Farm for the delivery of grain to the two storage barns and products for conditioning/fertilising land. The site access currently serves the landowner's dwelling as well as the existing two agricultural barns and the proposed AD site. Plans show that there are adequate visibility splays at this access and HGV's can turn into the site and turn within the site using the space at the mouth of the silage clamps.

The feedstock for the AD plant would be provided by the farm business run by the owner of Hartnoll Farm - this refers to their wider holdings and not just the Hartnoll Farm site. Farmyard manure and slurry would be sourced from Rix Farm and chicken manure from Swanhams Farm. Sites identified on the submitted plans as 'Plots', Manley Lane, Maunders, Hartnoll Farm and Wellington Farm would provide maize, beet, wheat for use in the AD on a rotational process.

Silage would be delivered in trailers and stored in silage clamps and farmyard manure also delivered to site in trailers. Slurry would be brought to site in 10 tonne tankers over the course of a day and held in the buffer tank before being used in the digester.

The supporting documentation states that there will be a considerable reduction in traffic going to and from the wider Hartnoll Farm site (which covers 148.92 hectares) as a result of the proposal. The figures provided for the vehicle movements at present show:

- Slurry, compost, chicken manure, fertiliser and farmyard manure transported to the site - 809 loads annually
- Silage, maize, wheat and straw leaving the site - 449 loads annually

Averaged over the year this represents an average of approximately 4 loads (8 vehicle movements) per day based on a 6 day working week across the year.

In comparison, the proposal is anticipated to reduce the volume of material being transported to the site and also the volume of material leaving the site. This is partly because where crops are currently transported to the adjacent agricultural barns for drying and storage and then transportation off site, fewer loads of these crops will be required as feedstock for the AD and there will be fewer movements associated with removing the digestate as some will be pumped by pipe to adjacent fields, some will be dried in the driers reducing the overall weight and mass of the digestate. Therefore, the proposed development is anticipated to generate the following:

- Slurry and manure transported to the site - 300 loads annually
- Grass, maize, silage and beet loads transported to the site - 339 loads annually
- Digestate transported by road off the site - 145 loads annually (this may be less with the use of the driers)

Averaged over the year this represents an average of approximately 3 loads per day (6 vehicle movements) based on a 6 day working week across the year.

It should be noted that the total loads of digestate stated here does not account for the total amount of digestate produced or removed from site - the remainder will be pumped from the AD to surrounding Hartnoll and Manley Lane fields for spreading using a temporary roll out 'umbilical pipe' which feeds spreading equipment on a tractor. Furthermore, the operation of the AD plant will remove the need for fertiliser and compost to be delivered to the site as the digestate will be used instead.

These figures show that in terms of traffic generation, the proposed development would reduce the number of vehicle movements on the local highway network by 474 loads (948 movements per year), therefore resulting in a net decrease in traffic when compared to the existing traffic movements occurring at the same site.

Respondents to the consultation have queried whether these existing traffic movements actually relate to the access to the site that will serve the AD plant, or in fact the Hartnoll Business Park located on the landowner's wider holding approximately 300m northwest of the site. However, the landowner has confirmed that the traffic movements stated relate to the agricultural access which is the subject of this application.

The Highway Authority notes that, as there is no land in the ownership of the applicant (Greener for Life Energy Ltd), planning conditions cannot be used to secure the feedstock sources and pumping and destinations of digestate. This means that the LPA must consider the possibility that the applicant would be able to source the feedstock and deliver to alternative locations which could have an impact on the validity of the figures in the Transport Statement provided and on which this application is being assessed. Recognising this, the Highway Authority recommended that a passing place be provided between the site access and the junction of Crown Hill with Post Hill.

While it is noted that a high proportion of the neighbour objections received in relation to this proposal raise concern about the impact of traffic on amenity and road conditions, the Inspector for the recent Edgeworthy Farm appeal which was allowed (Ref: APP/Y1138/A/14/2211282) accepted that this could not constitute a reason for refusal as the vehicles involved in serving the site would be a legal size for the highway and the roads would be used legally. It would therefore be unreasonable for the Highway Authority to seek any improvements or maintenance for such use or to restrict the use of that road.

Furthermore, the Highway Authority has raised no objection to the proposal since it includes the provision of a passing place on Crown Hill to accommodate the traffic serving the site.

3. Landscape and visual impacts

The AD site is proposed to be located in a field adjacent to two existing buildings used as grain stores and farm equipment storage and within fields used as grassland for grazing and harvesting. There is also a large timber yard located on the far side of the Crown Hill lane from which the AD site is accessed, though this is less prominent in the local landscape. The site is located on land that is typical of the Mid Devon lowland plains landscape character area and is bordered on all four sides by hedgerows with some small trees. The land slopes from north to south away from the proposed location for the plant. The plant will therefore be prominent in some local views of the site, though the impact is reduced by the location of the plant adjacent to two sizeable agricultural buildings. As such it would be seen grouped closely together with existing agricultural structures relating to the same farm business and not as a solitary new built form in the landscape.

In this application a plan has not been provided as in the previous approval showing the grid connection proposed to an existing pole approximately 210m south east of the site. It has been confirmed that the cabling will be laid underground so there would be no visual impact in that respect. Therefore a specific condition will be included to ensure this is undertaken.

All existing hedgerows would be retained and a planning condition is recommended to secure their maintenance and therefore screening properties in the longer term.

The Landscape and Visual Impact Assessment was conducted over a 5km radius study area and a total of 10 viewpoints. In summary, the assessment concludes that the significant effects of the proposed development would be limited to:

- The character of the landscape of the site and immediately surrounding area which would be limited to a small part of the Culm Valley Lowlands Landscape Character Area.
- The visual amenity of residents in properties up to approximately 1km from the proposed development, with open views towards the proposed development. These are limited to a few properties at Crown Hill Bridge as well as possible some other properties on the outskirts of Halberton and northwest near Hartnoll Cross.
- Walkers on a limited section of the Grand Western canal, boat users on the canal in the immediate vicinity of the site, cyclists on the section of Sustrans route adjacent to the site and users of a limited part of the country park adjacent to the site.

The assessment also concludes that there would not be any significant effects on the landscape fabric, the character of the landscapes beyond the immediate surroundings of the site, or the visual amenity of most residents, or walkers, equestrian and cyclists in the study area or motorists on the local highway network.

Many of the responses to the consultation raised concern based on visual impact, in particular the impact on the Grand Western Canal (GWC) which is located approximately 200m to the north and 70m to the east of the proposed AD site and designated as a Conservation Area, Country Park and Local Nature Reserve. The appearance and setting of the GWC is important to its special character and qualities, and the impact of the development must be taken into account in this regard.

The proposed AD will introduce a large structure into the landscape close to and visible from the canal. The viewpoints provided in the Landscape and Visual Impact Assessment show that the AD will be more prominent in some views from the canal than others, depending on the density of vegetation along the canal and in the intervening landscape. However, it is noted that the viewpoints provided show the landscape in full leaf so the development may be more prominent in winter. It is also noted that the viewpoints do not include a photomontage or wireframes siting the development structures at scale in the landscape.

Neighbour consultation responses and observation made by Members during their site visit relating to application 13/01605/MFUL highlighted that the visuals providing in the planning application do not appear to accurately reflect the views of the site from the points indicated. Further photographs have been undertaken which show the existing part-built unit from some of the same vantage points as the photomontage.

For the purposes of this report, and by reading the viewpoints in conjunction with the written assessment and newly taken photos, the revised elevation plans and topographical survey, it is possible to get an adequate impression of the impact and significance of the development in the landscape. For example, the elevation plans show the tip of the dome on the AD to be lower than the height of the tallest existing agricultural building immediately adjacent to it and so this can be considered when assessing the viewpoints. It should also be noted that the AD plant will be set within a bund and the site will be subject of some cut and fill that will sit the plant into the natural slope of the site and slightly reduce the overall height above existing ground level.

The impact of the development can be further mitigated by the external finishes chosen. Correspondence from the applicant confirms that all proposed structures would be green. This is not detailed on the plans provided and so it is recommended that a planning condition is used to secure this important detail. A submitted planting plan shows goat willow and downy birch to be planted along the northern boundary of the site. There is limited potential for further planting within the site boundary therefore it has been agreed to extend the red line to be able to include an area beyond the bund for the provision of planting, along with further planting behind the existing agricultural building and the silage clamps. Therefore there is no requirement now for the applicant and the landowner to enter into a unilateral agreement to secure construction of a bund and planting in accordance with a scheme to have been submitted to and approved in writing by the Local Planning Authority. The purpose of the bund and screening is to screen the development from views from the Grand Western Canal Conservation Area where Crown Hill crosses the canal, and from properties in that location. The bund shall be approximately 10 metres wide and 3.2 metres high and shall include planting to the top of small shrubs in order to offer some additional screening of the structures which is 13.5 metres high to the top of the dome.

In order to properly assess the impact of the development upon the landscape, it is important to recognise that landscape has a perceptual aspect, not just a physical one. The European Landscape Convention defines landscape as 'an area, as perceived by people, whose character is the result of the action and interaction of natural and/or human factors'. The Mid Devon Landscape Character Assessment identifies the site area as Lowland Plains, the key characteristics it describes as including large scale farmsteads including modern steel framed buildings located on the rolling sides of the land above the valley floor. As such, the existing agricultural buildings and the proposed AD structures would appear to be typical of this landscape character type and could be perceived as part of the farming practices and patterns that have become part of the local rural character over time.

While many of the objections raise concern about visual impact both in relation to the wider rural landscape and the GWC in particular, it is considered that the intermittent views from the GWC and the immediate site context which includes 2 existing large scale agricultural buildings means that the proposed development will read as part of the existing landscape fabric and not a solitary lone feature unrelated to its surroundings. Combined with careful colour choice and potential for some additional

screening planning the development is considered to respect the character and appearance of the area in accordance with criteria b) of policy DM22 and will preserve the character and setting of the GWC, meeting policy DM22 of Local Plan Part 3 (Development Management Policies). The extent of any impact upon the canal as a Conservation Area has been assessed in a previous section.

4. Impact on neighbouring residents

Odour

Manures will be transferred directly to the solids feeder on arrival at site for feeding into the digester. A planning condition preventing the storage of any farmyard or chicken manure in the clamps is recommended to avoid odour nuisance and addresses some of the concerns raised by respondents. The silage stored in the clamps will be sheeted restricting potential release of odours. The application states that liquid digestate will be stored in a lagoon if required temporarily, but discussions with the applicant revealed this detail is not the case and in fact the sealed digestate tanks have sufficient capacity to store the product for 6 months.

The digestate (in both solid and liquid form) will be used on land as a soil conditioner and fertiliser, in place of the slurry that is currently used. The applicant states that the digestate would have "significantly lower odour impact than slurry" as the volatile fatty acids in the raw materials is reduced in the AD process by up to 80% and so the potential for odour nuisance is significantly reduced and this would therefore reduce odour emissions during spreading.

The Inspector who determined the recent appeal in relation to an AD plant at Edgeworthy Farm, Nomansland (Ref: APP/Y1138/A/14/2211282) accepted that the reduction in fatty acids as a result of digestion means that the resulting digestates are less odorous than untreated raw slurry which is currently spread on surrounding agricultural land in its raw state and odours released unchecked.

Spreading techniques allow for digestate to be injected into the land. This is much easier to do with digestate coming from the AD compared to slurry on its own. The digester chops the fibres and with the digestion process allows a more homogeneous product, the digestate, to be either dribble barred or injected into the land minimising opportunity for release of odour.

The plant would treat the feedstock in a fully enclosed environment thus controlling odour emissions and reduce risk of odour nuisance to residents and passers-by. Slurry would be transported in tractor and (sealed) tanker and then piped from the tanker into the buffer tank so the process is completely contained. The applicant asserts that the AD process itself stabilises organic wastes avoiding uncontrolled methane (CH₄) emissions and odours.

Anaerobic digestion can only take place in the absence of oxygen and so all tanks and pipe work must be airtight to keep oxygen out of the system - this will also have the effect of largely containing odours.

It is considered that all these aspects of the AD process and management of the operation adequately address concerns relating to odour raised by respondents. Environmental Health have raised no objection to the proposed development based on the odour assessment provided and further control will be applied to the operation through the environmental permit process administered by the Environment Agency. The Inspector for the recent Edgeworthy appeal considered that these are adequate measures to protect against unacceptable odour emissions as a result of the proposed development and in line with the requirements of criteria b) and c) of policy DM22 and policy DM7 of Local Plan Part 3 (Development Management Policies).

In the appeal by Peel Environmental Services Ltd and Marshalls Mono Ltd: Fletcher Bank Quarry, Ramsbottom. APP/T4210/A/14/2224754 (AD Plant) odour was considered by the Inspector and considered the appropriate control forms part of the EA's regulatory responsibility; it is not something that is a material planning consideration unless residential odour would be unacceptable in planning terms. In this instance Environmental Health has not raised such concerns.

Other emissions to air

No gases from the anaerobic digestions process would be released into the environment. During maintenance or in the unlikely event of a breakdown of the CHP unit, gas would be burned off via the flare. The only gases that would be released into the environment as a result of the proposed plan would be exhaust gases from the CHP unit which would need to be maintained within the statutory limits for such emissions.

The Environment Agency has raised concerns with regard to the importation of digestate from other AD Plants. It has been confirmed by the operators that the only digestate to be brought to site is for seeding of the new unit and there is no intention of bringing digestate to be stored on site from other AD Plants as general practice. Any digestate that is brought to site would be for set-up and this can be included in the Construction Environmental Management Plan.

Noise

The main sources of noise relating to this development are the related traffic movements from operations and the construction period, the unloading of materials on site, the running of the CHP unit the running of the driers and the pumping of digestate to land which will each be considered in turn.

Operating hours for deliveries, exports and maintenance would be between **7am to 6pm Monday to Sunday**. However, the applicant states that the traffic movements to and from the site would not be continuous during that period. While the transport figures given show the number of movements averaged out over the year, this is not an accurate reflection of the pattern of movements likely to take place. The applicant states that harvest of silage feedstocks will take place on approximately 20 days per year between mid-May and the end of October. At these times, delivery traffic movements may need to take place out of normal operating hours in order to complete the job while weather and light allows. This does present some level of uncertainty over the time and duration of vehicle movements, though the applicant stresses that harvests are part of normal agricultural practices and reflect the patterns of vehicle movements already taking place for deliveries of grain to the existing agricultural buildings for storage at harvest time.

Noise will occur during the construction period which would be temporary and as work is already being undertaken it would still be appropriate to include a construction environment management plan by planning condition to control the hours of potential noise disturbance as well as dust and local traffic impacts from deliveries during the remainder of the construction. In addition it is considered the management plan should also extend to the operation of the plant, to be able to ensure traffic movements are as per the information submitted as part of the application.

Respondents to the consultation raised concern regarding reversing alarms from delivery vehicles. Tractors and trailers making deliveries do not tend to have reversing alarms, it would be difficult to condition the vehicles not under the direct control of the operator when deliveries are being made. Therefore this leaves the slurry tanker deliveries and the onsite telehandler as the likely source of reversing alarm noise. It is therefore reasonable to include a condition that the telehandler and any vehicles mainly used on site have the reversing alarm replaced with a light system/or a white noise broadband system. Thus reducing the frequency of the noise on site. The existing buildings and silage tanks will also act as a noise barrier between the source of the noise and nearest properties and the Grand Western Canal (GWC).

The submitted original noise assessment considers that the maximum noise level at the nearest noise sensitive property is likely to be 20dB At the New House (110m from the AD Unit), 22dB at Lisieux (200m from the AD Unit) and 21dB at Badgers Holt (220m from the AD Unit). This takes into account the ambient noise levels, the distance to the nearest noise sensitive property, the position of existing buildings and the proposed silage clamps which would attenuate some of the noise.

Examples of familiar noise levels:

Telephone ringing	80 dB
Piano practice	60 - 70 dB
Average road noise	@ 25m - 30m 72 dB

Normal Conversation	60 -70 dB
Washing Machine	70 dB
Vacuum Cleaner	@ 1m 72 dB

At the time of the initial report no noise assessment of the equipment used to pump the digestate to adjacent fields had been provided. However, the pump is driven by an electric motor with a standing tractor with PTO on average 1 per day (as per 5.2.10 in the transport plan), in reality there would be peaks in movements related to 4 spreading seasons for crops. These would all be within the working day and between May and October. The tractor and pump would be located within the site and so again the buildings and silage clamps would provide some attenuation for the temporary noise event.

Environmental Health has raised some concerns relating to the noise report submitted and requested a further assessment is carried out.

This report to cover

- The source/s of noise are fully understood and quantified, paying particular attraction to night time noise levels, site vehicle movements, deliveries and if applicable, audible reversing alarms.
- All nearby noise sensitive receptors have been identified
- the impact on any receptors has been determined with reference to noise standards
- noise mitigation measures have been identified where necessary

Environmental Health has considered the supplementary noise report of which the officer's considerations are within the consultation section of this report.

Given that the majority of the noise would be temporary and infrequent and its source is a common agricultural practice, it is not considered to be likely to cause a statutory nuisance or present a robust reason for refusal.

5. Drainage and water impacts

Rain water from the buildings and non-silage clamp areas will be collected and channelled into a soakaway. Rain water from the clamps and effluent in the bunded area will be channelled into a drainage system and then into a buffer tank which feeds the anaerobic digester. Sewerage from the WC facilities in the staff building will drain to a septic tank. Further details of these systems are recommended to be required by planning condition.

The site is in a Groundwater Nitrate Vulnerable Zone and as such the surrounding land would benefit from the use of fertilisers which have a more uniform nutrient content so that spreading rates can be better controlled on the land. While the land surrounding the site is identified as having soils with a high leaching potential, the plant is closely controlled by electronic monitoring systems and the bund within which the plant would sit has sufficient capacity to accommodate leaked material should there be a breach. The Environment Agency permit would require a bund that can contain the entire product volume plus 10%.

6. Impact upon the Grand Western Canal Conservation Area

The significance of the canal conservation area lies in the history of industrialisation of the south west - access created by canals allowed goods to be sent to and delivered from remote rural areas and created huge change. Most canals cut through open countryside and were once considered themselves to be damaging to the rural tranquillity of areas.

The conservation area is now a peaceful way for members of the public to access the countryside and to experience the rural landscape. Views can be long or short, with many variations to those views - farm buildings, houses, fields, roads, etc. The AD plant is reasonably close to the canal and does change views.

It introduces a new structure to the landscape which is larger than the average agricultural building.

However, when seen from a distance its scale and height sit reasonably well within the landscape and does not look entirely out of place.

Closer views are interrupted by hedges and some tree planting, but nonetheless it does appear to be more industrial. My feeling is that the complex as a whole brings an appearance of industrialisation of this part of the landscape to a minor extent, but that planting between it and the canal - behind the hedge line would be best - would break up views and lessen the harm.

When making these comments I bear in mind that this complex has an existing consent - these buildings would have been here albeit in a slightly different location. The previous consent accepted the less than significant harm and I feel that has not changed.

Summary

Whilst the complex is quite visible from the conservation area, I find that it is not more harmful to its setting than that previously given consent. With planting it will create acceptable 'less than substantial harm'.

7. Other impacts

The operation of the biogas plant would be fully automated from an on-site central control panel which would monitor information transmitted from instruments around the plant. Marches Biogas (the technology provider) would provide a remote monitoring service via internet which allows changes to be made to the system remotely, while advice can be given over the phone. A plan would be put in place to ensure that plant is well maintained. However an office building shown on the plan will be used as a maintenance office/workshop.

While the application states that the AD plant is designed to accommodate a variety of solid and liquid feedstock types to give the plant a greater degree of flexibility in the future, the application seeks permission for maize, beet, silage, slurry and chicken/farmyard manure only. Should the applicant wish to use different feedstock types in the future, an application to vary the planning permission would be required as it is proposed to be conditioned.

Although the proposal may result in just 1 additional job, the development would be operated by existing farm staff, helping to secure their employment and support diversification of this agricultural business in line with the National Planning Policy Framework.

The site does not lie within any designated wildlife site. The Phase 1 Habitat Survey (Undertaken 2013) revealed no significant evidence of protected species or flora which need special consideration as a result of the proposed development. A concern has been raised with regard to aspects of this Habitat survey in particular, the age of the survey. A further Habitat survey which was undertaken by engain on 21st March 2014 for Hartnolls Farm Tiverton and drawn to the attention of the Authority undertook a more detailed survey of the area in and around the AD site. With regard to Dormice etc although nest tubes were laid in the vicinity of the site none showed signs of activity for dormice. No other protected species were noted on the site. It is evident that dormice and other protected species are present within the locality. However in this case no hedges are to be removed and so there is minimal impact on the presence of dormice and other protected species in the area. Therefore the existing Phase1 habitats survey is sufficient for the needs of this development. With regard to the age of the survey it is considered that as no specific endangered species were discovered a 3 year period is considered appropriate in this case, particularly as work has already commenced as part of the previous approved application 13/01605/MFUL.

The proposed development lies in an area of potential archaeological, prehistoric activity in the immediate vicinity demonstrated by find spots of flint tools and two ring ditches in the field to the northwest. Accordingly a Written Scheme of Investigation has been submitted with the application and as the Devon County Council Historic Environment Service raised no objection to the proposal; a planning condition is recommended now to try and secure the implementation of that scheme to areas outside the bund and within the proposed planting area before any planting is undertaken.

In the previous application 13/01605/MFUL respondents raised concern about the loss of Grade 1 agricultural land for the AD plant itself, and also the crops grown as part of the feedstock. However,

the application site is relatively compact and covers just over a hectare of land which has a minimal impact on ground available for other agricultural uses. The applicant states that the land used for growing the silage elements of the feedstock is already used for growing the same or similar crops and as such their use as feedstock for the AD plant would have no discernible impact on the agricultural landscape. It is also considered that there is no change of use on this land as the AD process would use farmyard and chicken manure and standard agricultural crops to produce digestate to be used as a soil conditioner. The Inspector for the recent Edgeworthy Farm appeal which was allowed concluded that as such the AD process "would clearly be part of a productive agricultural activity. Land would thus not be taken out of productive agricultural use and nor would it become unavailable for agriculture."

Respondents also raised concern relating to the potential for mess to be brought onto the public highway. However, the site will be set on a concrete pad with only silage stored externally in the clamps which offer only limited risk of being spread onto the road. The applicant will be bound by the normal responsibilities to keep the public highway clear of debris without the need for a specific condition to try and control this further.

Concerns have been raised with regard to vermin. This would be no more than that for any agricultural activity within the countryside. The operators will be bound by the normal responsibilities to keep vermin under control.

The site is within a Groundwater Nitrate Vulnerable Zone and the digestate produced by the AD process offers better control over nutrients being applied to this land as well as the resulting reduction in transport movements and odour from transporting raw materials to sites for spreading.

8. Benefits

The NPPF states that local planning authorities should help increase the use and supply of renewable energies and that applicants should not need to demonstrate the overall need for renewable energy. It also requires local planning authorities to approve applications where the impacts are (or can be made) acceptable. The proposed development would contribute to national targets for sourcing 20% of the UK's energy from renewable sources by 2020 and this report has demonstrated that the proposed development accords with Local Plan policy and the impacts are considered to be acceptable.

The AD process is an efficient way of capturing nutrients in organic wastes, including animal manures. The AD process retains these nutrients and converts them into available forms enabling a farm to plan its nutrient management and reduce its use of fossil fuel dependant mineral fertilisers. The recycling of these wastes also reflects the priorities of the waste hierarchy and Policy WPC1 of the Devon Waste Local Plan.

Significantly, the AD produces renewable energy in the form of biogas. Biogas can be used either in a conventional boiler, or as the fuel for a combined heat & power (CHP) unit. The applicant has stated in the previous application that they are keen to work in partnership with Mid Devon District Council to support local plan priorities. The present Allocations and Infrastructure DPD expressed the LPAs commitment to renewable and low carbon energy in policy AL/TIV/5 which seeks Renewable and low carbon energy generation to provide a significant proportion of the Tiverton Eastern Urban Expansion's energy use. The proposed AD could contribute to these ambitions, through for example, a district heating scheme which the applicant stated at the time they are willing to consider should the opportunity arise. However this is not proposed and therefore not a planning benefit proposed to be delivered through this proposal.

9. Planning balance

The application submitted for this revised scheme is not for a larger processing AD plant, but for one where the structures have been re-orientated along with some additional equipment, increase in site area and variation to the design of certain aspects. The principle for a 500kW anaerobic digester at this site has been established with planning permission 13/01605/MFUL. The proposal is to change certain parts of the existing scheme as set out in the Synopsis attached to this report.

Although it has been intimated that the scheme is for a 1000kW AD plant the scheme put forward is for a 500kW AD plant as before. Consideration cannot be made as to what might or might not be proposed in the future.

Concerns have been raised with regard to many topics; these have included many and wide ranging issues the main points being noise, odour, congestion and suitability of the roads, visual impact, vermin, flooding, loss of grade1 land, and wildlife impacts. All these issues have been addressed in the report, and it is confirmed that the appropriate monitoring bodies have assessed there specific areas and concluded that there are sufficient mitigations where needed and that the proposed meets with both Local and National Policy. Additional Information has been sought where and when required during the process of the application.

Planning permission has previously been granted for an AD plant on this site. The change to the design of the plant will have no further significant negative impacts on the surrounding area than those of the previously approved scheme. The bunded area, although larger, will have significantly more planting to the area between the site and the Grand Western Canal to that of the previous approval. It is therefore recommended that the proposed revised scheme, to undertake changes to the layout of the site and slightly increase the storage capacity is appropriate. The proposed will not have a detrimental impact on the conservation area and or the immediate amenity of occupiers and users of the area. Such as to now warrant refusal of the application. The highway network will be able to support the proposed as there is no increase in the proposed scheme to that approved under 13/01605/MFUL.

CONDITIONS

1. The date of commencement of this development shall be taken as the 17th July 2015 when the application was registered by the Local Planning Authority.
2. The development hereby permitted shall be carried out in accordance with the approved plans, approved reports and statements listed in the schedule on the decision notice.
3. Details of the colour and finish of the building materials to be used (Including the digester dome) and to be submitted to and approved in writing by the Local Planning Authority within 1 month of the date of this approval. The development shall be carried out in accordance with these details and so retained.
4. Within 1 month of the date of this approval a Construction and Operational Environment and Traffic Management Plan shall have been submitted to and approved in writing by the Local Planning Authority. The plan shall include details of:
 1. hours of working;
 2. hours of deliveries; including details of any importation of digestate associated with commencement of operations.
 3. dust suppression management measures;
 4. traffic management
 5. vehicle routing to and from the site;
 6. programme of works
 7. parking for vehicles of site personnel, operatives and visitors;
 8. storage of plant and materials;
 9. loading, unloading and movement of plant and materials within the site.
 10. Facilities for cleaning wheels on exiting vehicles

All works shall take place in accordance with the approved details which will have been confirmed in writing by the Local Planning Authority.

5. The passing place created on Crown Hill as shown on the submitted plans associated with 13/01605/MFUL shall be permanently retained and maintained.
6. Within three months of the date of this planning permission, a programme of archaeological work indicating details of the parts of the site it shall relate to will be implemented in accordance with a written scheme of investigation submitted by the applicant or their agent and approved in writing by the Local Planning Authority.

7. The anaerobic digester facility hereby permitted shall not be brought into operation until a drainage scheme has been implemented in accordance with details that shall have been previously submitted to and approved in writing by the Local Planning Authority. Such scheme shall include details of the provision for the disposal of clean surface water by a Sustainable Urban Drainage System, and separate provision for disposal of foul waste and dirty surface/ yard water. The scheme shall include specifications and a timetable for implementation. The water management system shall be completed in accordance with the approved details and retained and maintained for that purpose at all times.
8. There shall be no storage of chicken and farmyard manures or slurry within the application site except within the sealed digestate storage tank(s) approved as part of this planning application.
9. All hedgerows within or on the boundary of the site located to the north west of the site, east adjacent to the highway shall be retained and maintained to a minimum height of 2 metres.
10. The feedstock for the anaerobic digester shall be slurry, farmyard and chicken manure, grass and arable crops only from the sites named in the application (Hartnoll Farm 62.13ha, Manley Lane 37.60ha, plots 41.48ha, Maunders 7.71ha, and Wellington 23.55ha and shown on plan/aerial photos Drawing numbers 13425/T04 Revision A and 13425/T05 Revision A set out in the approved transport statement date stamped 21st August 2015). A log book shall be maintained and completed detailing where and when the feedstock(s) for the AD plant have come from (Name of Farm/plot/supplier along with date and time of delivery) No other sites are to be utilised unless written confirmation has been received from the Local Planning Authority. Such log book shall be made available at all reasonable times to the Local Planning Authority.
11. There shall be no external lighting, except for low-level safety lighting for the protection of personnel or for purposes of essential maintenance.
12. The storage of digestate or other hazardous substances must be within properly constructed bunded areas of sufficient capacity, details of which are to be provided in writing to the Local Planning Authority prior to the first storage of any digestate outside the digestate storage tank. Such approved scheme shall be so retained.
13. The Tree Planting scheme submitted and approved plan WIN01_Redlinhay2_PP_004 shall be undertaken and completed within one month of the completion of the archaeological works subject to condition 6 above or within the next planting season following completion of the archaeological works, October-March whichever is the sooner.
14. Noise emissions from the Red Linhay Anaerobic Digester site at the nearest noise-sensitive locations are not to exceed the decibel levels stipulated below, day or night.

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

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

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

*(From the noise data supplied)

The average daytime background noise level is 36 dB (LA90 1hr) plus 5 dB exceedance
The average night-time background noise level is 28 (LA90 15min) plus 5 dB exceedance

15. Once the plant is fully operational, the operator shall provide a further noise assessment

demonstrating that the screening is adequate and provides enough protection to ensure that the typical minimum background sound level 22dB (LA90 15min) is not breached from the operation of the plant. This assessment must be submitted to the Local Planning Authority in writing within 3 months from the completion of the AD unit.

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

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

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

16. The emergency flare stack shall not be operated for maintenance or testing purpose except between 0700 and 1700 hours on any day (not including Bank Holidays)
17. Heavy and light goods vehicles along with plant under the control of the operators which deliver waste, remove digestate or biofertiliser or operate at the site shall only use non-intrusive broadband (white noise) vehicle noise alarms and/or reversing cameras. On such vehicles, there shall be no use of single or multi-pitch reversing beepers.
18. Written notification confirming the cessation of operations is to be given to the Local Planning Authority 3 month prior to the cessation of the use of the Anaerobic Digester plant hereby approved.
19. On the cessation of the use of the Anaerobic Digester plant hereby approved, the site shall be cleared of all buildings and structures, hardstandings bunds and any wastes within a period of six months from the date of cessation. After removal of the above, the surface of the site shall be regarded and be covered with topsoil to a depth of 500mm within a period of three months. The site shall then be planted in accordance with details to be agreed in writing by the Local Planning Authority.

REASONS FOR CONDITIONS

1. In order to establish a legal commencement date for the development to enable the development to be monitored by the Local Planning Authority.
2. For the avoidance of doubt and in the interests of proper planning.
3. No development shall begin until details of the colour and finish of the building materials to be used (including the digester dome) has been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with these details.
4. To safeguard the amenities of the area and occupiers of nearby buildings in accordance with DM2.
5. In the interest of highway safety and to ensure that adequate passing facilities are available for vehicles attracted to the site in accordance with DM2 and DM22 of the Local Plan Part 3 (Development Management Policies).

6. To ensure, in accordance with paragraph 141 of the National Planning Policy Framework (2012) and the supporting text in paragraph 5.3 of the Mid Devon Local Plan Part 3: Development Management Policy DM27 (2013), that an appropriate record is made of archaeological evidence that may be affected by the development.
7. To ensure adequate facilities are provided for the disposal of surface water from the development in accordance with policies DM2, DM22 and DM27 of the Local Plan Part 3 (Development Management Policies).
8. To reduce odour levels within the site and to prevent pollution of the water environment in accordance with policy DM7 of Local Plan Part 3 (Development Management Policies).
9. In the interest of the visual amenity of the area and to protect the setting of the Grand Western Canal in accordance with policies DM2, DM22 and DM27 of the Local Plan Part 3 (Development Management Policies).
10. The application has been considered as a site accepting these feedstock types only and not as a general waste facility and consideration of the impacts on the environment, neighbouring residents and the road network has been made on this basis and in order to accord with policies DM5 and DM22 of the Local Plan Part 3 (Development Management Policies).
11. To protect the rural character of the area in accordance with policies COR2 of the Mid Devon Core Strategy (LP1) and DM5, DM22 and DM27 of the Local Plan Part 3 (Development Management Policies).
12. To prevent pollution of the water environment in accordance with policy DM7 of Local Plan Part 3 (Development Management Policies).
13. To ensure the archaeological works are completed prior to the planting of the screening to minimise disturbance to the planting scheme and to provide further screening for the site and assist with reducing any potential noise.
14. To minimise the potential for pollution and disturbance to local amenity, in accordance with policy DM7 of the Local Plan Part 3.
15. To minimise the potential for pollution and disturbance to local amenity, in accordance with policy DM7 of the Local Plan Part 3.
16. To minimise the potential for pollution and disturbance to local amenity, in accordance with policy DM7 of the Local Plan Part 3.
17. To minimise the potential for pollution and disturbance to local amenity, in accordance with policy DM7 of the Local Plan Part 3.
18. To ensure the Local Authority are made aware of the impending cessation of the use to enable proper consideration of the removal of the items on the site.
19. To achieve a satisfactory landscape/restoration.

REASON FOR APPROVAL OF PERMISSION/GRANT OF CONSENT

While a significant number of objections have been received in response to the consultation on this proposal, it is not considered that the harm to the environment, the landscape, neighbouring residents and the Grand Western Canal is significant enough to warrant refusal of the application when balanced against the benefits. The planning history of the site is also a material planning consideration as planning permission has previously been granted for an anaerobic plant. This is a revised scheme. The Anaerobic Digestion plant will process farm wastes into a product which will assist in improving land management techniques and will generate a source of renewable energy. Traffic movements on the local highway network and improvements to access to site are considered acceptable. The impact on the Grand Western Canal is considered to be limited and is considered to

be outweighed by the benefits of the proposal. The change to the orientation of the units within the site will not provide further adverse impact on the local area to that which was approved under 13/01605/MFUL. Any harm likely to arise from this proposal can be adequately mitigated by the imposition of conditions. It is considered that this proposal will not cause significant harm and that the benefits of granting planning permission outweigh any limited harm that may be caused. Accordingly the application is in accordance with Mid Devon Core Strategy (Local Plan 1) policies COR1, COR2, COR5 and COR18, Local Plan Part 3 (Development Management Policies) DM1, DM2, DM5, DM6, DM7, DM8, DM22, DM27, Devon Waste Local Plan policy WPC1 and the National Planning Policy Framework.

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Appendix 1 – Synopsis of changes

AD Plant 13/01605 MFUL details	AD Plant 15/01034/Mful Details
1 Comprises - A digester tank: height 7m, diameter 24.9m and capacity <u>4300</u> (3409) cubic metres with a gas collection dome above of height 4.8m. Figures underlined as submitted in brackets as calculated - A digestate storage tank: height 7m, diameter 24.8m and capacity of <u>4500</u> (3381) cubic metres. - A buffer tank: height 4m and diameter 8m. - A control cabin housing the control panels for the anaerobic digester: 12 long, 3m wide, and 2m high - A CHP unit: 12m long and 2.6 m wide and 7m high contained in an acoustic box - A solids feeder tank: 9.2 m long, 3.8m wide and 2.8m high - A separator frame and clamp: 9m long, 7m wide, and 5.5m high - Silage clamps comprising four bays: 14.7m wide, 29m long by 4.6m high proposed to hold	1 Comprises - A digester tank: height 8m, diameter 25m and capacity <u>3926</u> (3927) cubic metres with a gas collection dome above of height 5.5m. overall height from excavated site is 13.5m Figures underlined as submitted (in brackets) as calculated - A digestate storage tank: height 8m, diameter 25m and capacity of <u>3926</u> (3927) cubic metres. - A buffer tank: height 4m and diameter 9m. - A control cabin housing the control panels for the anaerobic digester: 12 long, 3m wide, and 2m high 1 x CHP unit: 13.5m long and 3 m wide contained in an acoustic box including a chimney of 7m - Control building 14m long x 7m wide x 3m high - Gas compressor building 8m x 3.5m x 3m high - Transformer, HV switch each 2.5m x 2.5m x 2.4m high - LV panel 12m x 2.5m x 2.5m high - Office 13.5m x 2.5m x 2.5m high - Solids feeder 9m x 4m x 4m high 2 x Dryers 43m x 6m x 3.5m high - Gas flare 6m x 3m x 4.8m high - A separator frame and clamp: 9m long, 7m wide, and 5.5m high - feedstock clamps comprising 2 bays: 60m x

Appendix 1 – Synopsis of changes

silage (7844 cubic metres) • A concrete yard for vehicular movements • A GRP kiosk to house metering circuit breaker Bund recessed into the ground 1.4m Overall area 0.91 hectares AD Plant feedstock 13,925 tonnes • Cow slurry - 2,000 tonnes • Farmyard manure - 1,000 • Chicken manure - 2,000 tonnes • Maize silage - 4,444 tonnes • Grass silage - 2,981 tonnes • Beet - 1500 tonnes No Animal by products Source Manures Swanhams Farm 4.25 km east of Halberton Rix Farm between Tiverton and Bolham maize, grass and beet silage Hartnoll Farm, Manley Lane, Maunders and 'Plots' all located within approximately 3km of the AD site and Wellington Farm which is located approximately 20km away. The digestate will be in two forms, liquid and solid and used as a soil conditioner/fertiliser on land at Hartnoll Farm and Manley Lane. Supporting Information Waste Minimisation Statement	15m by 4m high proposed to hold material (7200 cubic metres) • A concrete yard for vehicular movements A GRP kiosk to house metering circuit breaker Bund Recessed into ground 2.0m Overall area 1.23 hectares + additional area for planting AD feedstock 14,231 tonnes • Cow slurry - 2,000 tonnes • Farmyard manure - 1,000 • Chicken manure - 2,000 tonnes • Maize silage - 4,444 tonnes • Grass silage - 2,981 tonnes • Beet - 1500 tonnes No Animal by products Source Manures Swanhams Farm 4.25 km east of Halberton Rix Farm between Tiverton and Bolham maize, grass and beet silage Hartnoll Farm, Manley Lane, Maunders and 'Plots' all located within approximately 3km of the AD site and Wellington Farm which is located approximately 20km away. The digestate will be in two forms, liquid and solid and used as a soil conditioner/fertiliser on land at Hartnoll Farm and Manley Lane. Supporting Information Waste Minimisation Statement
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Appendix 1 – Synopsis of changes

Odour Management Plan (dated March 2014) Appendix 10 (showing Swanhams farm and Rix Farm - chicken, farmyard and slurry source sites) Photograph (to illustrate GRP kiosk to house HV metering circuit breaker) Nutrient Management Plan Manure Management Plan Written Scheme of Investigation for Archaeological Watching Brief Landscape and Visual Impact Assessment GroundSure - Flood Insight report Pre-Development Flood Risk Assessment Extended Phase 1 Habitat Survey Report Envirocheck Report Volume 1 - Supporting Information (Post Submission Amended) - February 2014 Volume 2 - Process Information - November 2013 Transport Statement - October 2013 Volume 3 - Environmental Review (post Submission Amended) - February 2014 Environmental Health Noise and odour no objections	Odour Management Plan (dated March 2014) Appendix 10 (showing Swanhams farm and Rix Farm - chicken, farmyard and slurry source sites) Photograph (to illustrate GRP kiosk to house HV metering circuit breaker) Nutrient Management Plan Manure Management Plan Written Scheme of Investigation for Archaeological Watching Brief Landscape and Visual Impact Assessment GroundSure - Flood Insight report Pre-Development Flood Risk Assessment Extended Phase 1 Habitat Survey Report Envirocheck Report Volume 1 - Supporting Information (Post Submission Amended) - February 2014 Volume 2 - Process Information - November 2013 Transport Statement - October 2013 Volume 3 - Environmental Review (post Submission Amended) - February 2014 Historic environment site assessment Landscape response (East Devon) Ground water Vulnerability Plan Environmental Health issues with noise levels during proposed 24hr use
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PLANNING COMMITTEE AGENDA – 6th July 2016

Enforcement List

<u>Item No.</u>	Description
1.	15/00100/UCU – Unauthorised material change of use of land from agriculture to a mixed use of agriculture and use for the siting of a caravan for human habitation at Kerrells, Down Farm Buildings, Burlescombe, Tiverton EX16 7LF
2.	13/00036/UDUR – Timber windows replace with uPVC windows – (Listed Building) – Cullompton Article 4 Direction at 5 Ways Lane, Cullompton, EX15 1DL
3.	15/00042/UNLD – Allegation of untidy land on site of Old Village Hall at Land at 295600 102934, Fore Street, Silverton Devon
4.	11/00034/UCU – Unauthorised material change of use of land from nursing home to a mixed use including the siting of caravans at Langford Park Ltd, Langford Road, Langford, Newton St. Cyres, Exeter, EX15 5AG
5.	16/00132/LIS – Without listed building consent the execution of works for the alteration and extension to the listed building namely the erection of a single storey extension and alterations to the exterior of the building at Barn Orchard, Higher Furzeland, Copplestone, Crediton EX17 5NX

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Case No. ENF/15/00100/UCU

Grid Ref: 306705 114187

Address:

Land & Buildings at NGR 306655 224226 (Kerrells), Burlescombe, Tiverton

Alleged Breach:

Unauthorised material change of use of land from agriculture to a mixed use comprising agriculture and use as a caravan site for human habitation.

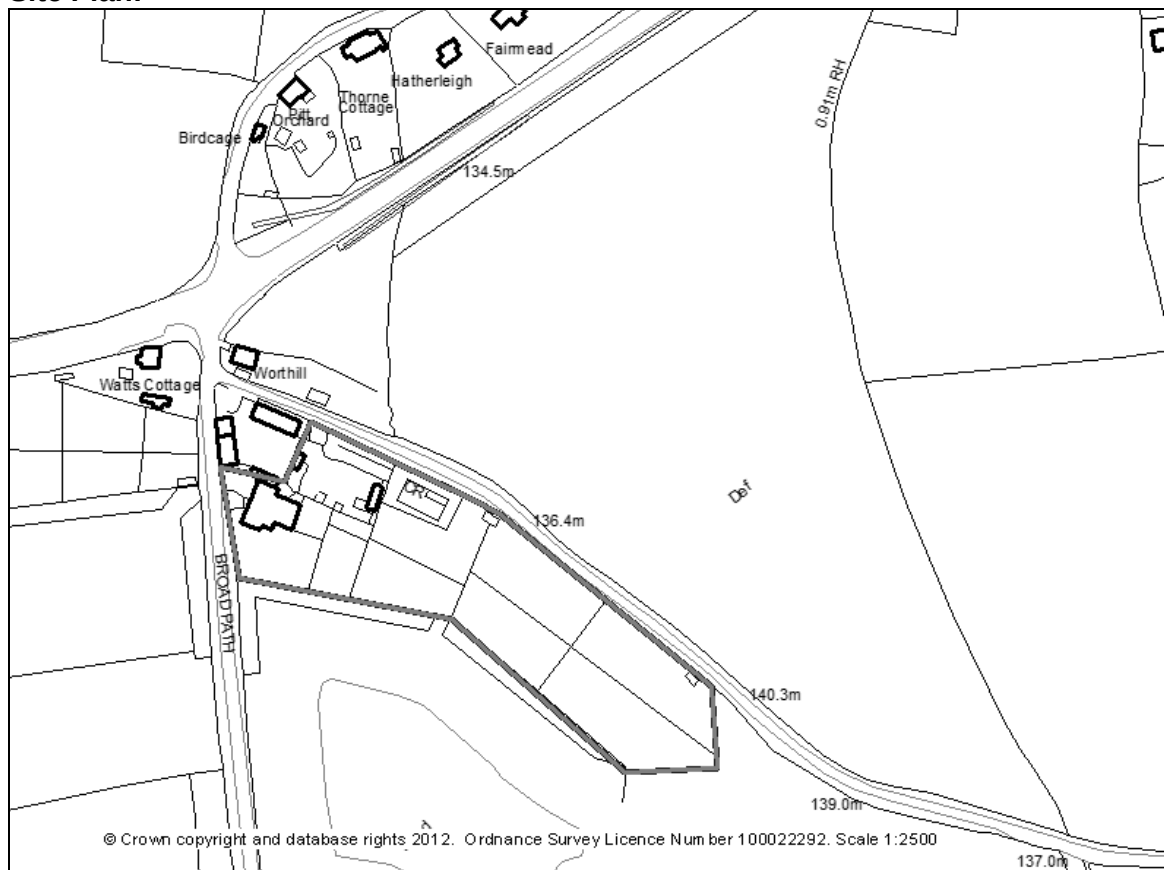
Recommendations:

That Members, having regard to the provisions of the Mid Devon Development Plan and all other material planning considerations in accordance with Section 172, Town and Country Planning Act 1990, (as amended) ("the Act") should grant authority to the Legal Services Manager to issue a change of use enforcement notice, requiring the cessation of use as a caravan site and the removal of 2x caravans from the land together with all domestic paraphernalia associated with the use of the land as a caravan site. . In addition, that authority be given to the Legal Services Manager to take any legal action deemed appropriate including prosecution or Direct Action in the event on non-compliance with the notice.

Site Description:

Kerrells is a smallholding comprising of approximately 2.4 hectares of agricultural land along with agricultural buildings. It is located to the south of the A38, some 1,100 metres north west of the Waterloo Cross roundabout within Uffculme parish.

Site Plan:



Site History:

89/00051/OUT	Outline for the erection of three houses and alterations to vehicular access	REFUSE
91/01954/FULL	Erection of workshop and use of land in connection with the manufacture of agricultural buildings and related products, alternation to vehicular access and alterations to barn to form stabling for adjoining paddock	REFUSE
15/01775/CLU	Certificate of Lawfulness for existing use of caravan as residential dwelling for a period in excess of 10 years	REFUSE

The Policies relevant to this report are:

The NPPF, Chapter 7, paragraph 55 advises that to promote sustainable development in rural areas, LPA's should avoid new isolated homes in the countryside unless there are special circumstances such as the essential need for a rural worker to live permanently at or near their place of work in the countryside. This aim is reflected in Mid Devon Local Development Framework policies.

NPPF, Decision-taking - "Effective enforcement is important as a means of maintaining confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control.

Development Plan Policies:

Mid Devon Core Strategy 2026
COR 18 - Countryside

Mid Devon Local Plan Part 3 (Development Management Policies)

Policy DM2 - High quality design
Policy DM10 - Rural workers dwellings
Policy DM31 - Planning enforcement

Reasons/Material Considerations:

A complaint was made to the enforcement team in August 2015 regarding two caravans being used for residential purposes at the site. This was confirmed by a site visit by your officers. The owner of the site indicated that the caravans had been on the site for a number of years, but was unable to provide specific dates at that time. A planning contravention notice was served on the owner of land which required her to provide specific information regarding the use of the caravans, and the length of time that they had been occupied.

The owner employed an agent to deal with this matter, who responded to the planning contravention notice on her behalf. The response confirmed that the caravans were in residential use, and that one of the units had been used continuously since August 2014, with the other having been sited since February 1998, and continuously occupied from March 2004 to the current time.

The agent stated that it was his intention to submit an application for a certificate of lawfulness in relation to the caravan that had been located on the site since 1998, then subject to that being granted, to submit a planning application to replace the older caravan with the newer unit. It was

agreed that enforcement action would be held in abeyance until the application for the certificate of lawfulness and if appropriate, the subsequent planning application, had been determined.

The application for a certificate of lawfulness was duly submitted but was refused on 18th April 2016 on the basis that the applicant had not demonstrated on the basis of probability that the caravan had been occupied continuously on a permanent residential basis for a period in excess of ten years. Contact has been made with the owner who has indicated that she will be appealing the decision to refuse the certificate of lawfulness, and that she does not intend to remove the caravans at the site. The owner is currently residing in one of the caravans; the other is rented to a family.

A caravan is permitted on agricultural land for the provision of temporary accommodation during a particular season when the occupier is employed in farming operations. However, in this instance, both caravans are occupied as a permanent place of residence, and the older unit is rented to a family, none of which are employed at the site. Officers are of the opinion that these residential caravans are unacceptable and constitute a change of use of the land to residential caravan site.

To secure the cessation of the unauthorised use of the land as a residential caravan site, and to ensure that it does not become immune from enforcement action through the passage of time, Members are requested to authorise enforcement action requiring the removal of the caravans together with all domestic paraphernalia associated with the use of the land as a caravan site.

Human Rights and Equality Issues:

The expediency of Enforcement action has been assessed with reference to the National Planning Policy Framework (NPPF). Expediency has also been assessed with regard to the statutory Development Plan, comprising the Core Strategy 2026 (July 2007), the Allocations and Infrastructure Development Plan Policies (January 2011) the Local Plan Part 3 Development Management Policies (October 2013) the Proposed Local Plan Review Policies 2013 - 2033.

When making their decision, Members must have regard to all relevant planning legislation, regulations, guidance, circulars and Council policies.

In addition, Members should note that the Human Rights Act 1998 (HRA 1998) makes it unlawful for the Council to act incompatibly with Convention rights. Decisions by the Committee must take account of the HRA 1998. Therefore, Members need to be aware of the fact that the HRA 1998 makes the European Convention on Human Rights (the Convention) directly applicable to the actions of public bodies in England and Wales. The specific parts of the Convention relevant to planning matters are Article 6 (right to a fair hearing); Article 8 (right to respect for private and family life); Article 1 of the First Protocol (protection of property) and Article 14 (prohibition of discrimination).

Article 6 deals with procedural fairness. If normal committee procedures are followed, it is unlikely that this article will be breached.

Article 1 of the First Protocol and Article 8 are not absolute rights and infringements of these rights protected under these are allowed in certain defined circumstances, for example where required by law. However any infringement must be proportionate, which means it must achieve a fair balance between the public interest and the private interest infringed and must not go beyond what is needed to achieve its objective.

Article 14 states that the rights under the Convention shall be secured without discrimination on grounds of 'sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status'.

The power to issue an Enforcement Notice is discretionary and should only be used where the Local Planning Authority are satisfied that there has been a breach or breaches of planning control. It must also be satisfied that it is expedient to issue the Notice having regard to the provisions of the Development Plan and to any other material considerations. Consequently the Council must decide based on the particular circumstances of each individual case the question of expediency. The decision to take enforcement action must be reasonable and not based on irrational factors or taken without proper consideration of the relevant facts and planning issues or based on non-planning grounds.

Options for action or remedy:

The list of options available is as follows:

Take no action: - officers consider that the use of the land as a caravan site is not appropriate and therefore the service of an Enforcement Notice will prevent the use from becoming immune from enforcement action due to the passage of time. For this reason, it is not considered appropriate to take no action.

Invite a planning application - It is officer opinion that planning permission would not be granted for the reasons outlined in the above report, and therefore it would not be appropriate to invite an application.

Issue an Enforcement Notice

Officers consider that this is the most appropriate course of action for the reasons given in this report.

The Requirement of the Notice:

Remove from the land all residential caravans together with all domestic paraphernalia associated with the use of the land as a caravan site.

Reasons for Issuing the Notice:

It appears to the Council that the breach has occurred within the last ten years.

The use of the land as a residential caravan site constitutes unsustainable development in a rural area, where new homes are restricted to those that can be specially justified, for example, for use by essential rural workers. That need has not been proven. Consequently, the development is contrary to the National Planning Policy Framework and the Mid Devon Development Plan. Officers do not consider that planning permission should be given, because planning conditions could not overcome these objections to the development.

Period for Compliance:

Six (6) months after the notice takes effect.

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Case No. ENF/13/00036/UDUR**Grid Ref:** 302048 106988**Address:**

5 Ways Lane, Cullompton, Devon, EX15 1DL

Alleged Breach:

Unauthorised removal of timber windows and replacement with uPVC windows in a grade II listed building.

Recommendations:

That Members, having regard to the provisions of the Mid Devon Development Plan in accordance with Section 38, Planning (Listed Building and Conservation Areas) Act 1990, (as amended) ("the Act") should grant authority to the Legal Services Manager to issue a listed building enforcement notice, requiring the removal of the two uPVC windows on the elevation, and the replacement with wooden windows to a specification provided by the Local Planning Authority. In addition, that authority be given to the Legal Services Manager to take any legal action deemed appropriate including prosecution or Direct Action in the event of non-compliance with the notice.

Site Description:

The property is a 17th century, grade II listed two storey residential cottage located within the Cullompton conservation area. It was created from the rear wing of a complex of buildings that were once part of 15 Pound Square.

Site Plan:

Site History:

14/00894/LBC	Listed building consent for the installation of replacement timber windows	PERMIT
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Development Plan Policies:**Mid Devon Local Plan Part 3 (Development Management Policies)**

National Planning Policy Framework paragraphs 132 and 134

Mid Devon Local Plan

Policy DM2 – High quality design

Policy DM27 - Development affecting heritage assets

Reasons/Material Considerations:

It was noted during a review of the Cullompton Conservation area in early 2013 that two wooden windows in the northern elevation of the building had been removed and replaced with uPVC units. One of these windows was a circular headed twelve pane sash window at first floor level, the other was a small square window at first floor level. There is a further sash window remaining at first floor level which is timber and single glazed.

Under sections 7 and 9 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) works that affect the character as a building of special architectural or historic interest require specific consent, and to carry out such works is an offence. It is the opinion of officers that the uPVC windows are inappropriate in appearance and have a detrimental impact on the character of the building; the materials used in both windows is unacceptable, with the design of the window at first floor being particularly inappropriate.

At the Planning Committee in November 2013, an enforcement report was considered by Members in relation to nineteen properties that fell within the Cullompton Conservation Area and Direction Article 4(2) Area. It was resolved at that meeting that delegated authority was to be given to the Legal Services Manager to defer the service of a Listed Building enforcement notice for 3 months to allow for the submission of the Listed Building consent application. In the event that no application be submitted the service of the Listed Building Enforcement Notice to require that the 2 x unauthorised uPVC windows on the northern elevation are removed and replaced with wooden windows to a specification provided by the LPA based upon historical detail within a 6 month compliance period.

Replacement windows (Alteration and Works) that affect its character as a building of special architectural or historic interest require Listed Building Consent, and it was hoped that this resolution would encourage the owner of the property to resolve the matter without the need for formal proceedings. Further negotiation took place, and an application for listed building consent for the installation of replacement timber windows (reference 14/00834/LBC) was submitted, and subsequently approved on 17th September 2014. A condition was attached to that approval which require the works to be begun within one year of the date of the consent.

The works to replace the windows have not taken place within the specified one year period. Consequently, the listed building consent has now lapsed. Despite letters having been sent, no contact has been made by the owner. Officers consider the most appropriate way forward is the issue of a listed building enforcement notice requiring the removal of the unauthorised windows, and there replacement with timber windows to a specification approved by the Conservation Officer.

It is considered that an appropriate time for compliance should be six months after the notice takes effect to allow the owner adequate opportunity to source the bespoke timber windows required and to have them fitted to the property.

Human Rights and Equality Issues:

When making their decision, Members must have regard to all relevant planning legislation, regulations, guidance, circulars and Council policies.

In addition, Members should note that the Human Rights Act 1998 (HRA 1998) makes it unlawful for the Council to act incompatibly with Convention rights. Decisions by the Committee must take account of the HRA 1998. Therefore, Members need to be aware of the fact that the HRA 1998 makes the European Convention on Human Rights (the Convention) directly applicable to the actions of public bodies in England and Wales. The specific parts of the Convention relevant to planning matters are Article 6 (right to a fair hearing); Article 8 (right to respect for private and family life); Article 1 of the First Protocol (protection of property) and Article 14 (prohibition of discrimination).

Article 6 deals with procedural fairness. If normal committee procedures are followed, it is unlikely that this article will be breached.

Article 1 of the First Protocol and Article 8 are not absolute rights and infringements of these rights protected under these are allowed in certain defined circumstances, for example where required by law. However any infringement must be proportionate, which means it must achieve a fair balance between the public interest and the private interest infringed and must not go beyond what is needed to achieve its objective.

Article 14 states that the rights under the Convention shall be secured without discrimination on grounds of 'sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status'.

The power to issue an Enforcement Notice is discretionary and should only be used where the Local Planning Authority are satisfied that there has been a breach or breaches of planning control. It must also be satisfied that it is expedient to issue the Notice having regard to the provisions of the Development Plan and to any other material considerations. Consequently the Council must decide based on the particular circumstances of each individual case the question of expediency. The decision to take enforcement action must be reasonable and not based on irrational factors or taken without proper consideration of the relevant facts and planning issues or based on non-planning grounds.

Options for action or remedy:

The list of options available is as follows:

Take no action: - This is not considered to be appropriate as the windows are not acceptable and are having a detrimental impact on the character of this listed building.

Prosecution - Works to a listed building are an immediate offence, and this remains an option. However, at this time your officers consider that it should be a priority to ensure the harm to this historic building is remedied, and prosecution will not secure this.

Issue a Listed Building Enforcement Notice - This is considered to be the most appropriate way to resolve this matter, and ensure that the building is returned to its previous condition.

Reasons for Decision:

As outlined in the report above, the current uPVC windows are considered by your Officers to be unacceptable. The owner has been given a substantial period of time to resolve the matter but has failed to do so, and formal action is now needed to bring this matter to a conclusion. The design and materials of the windows are considered to detract from the character and appearance of the listed building contrary to Mid Devon Local Plan Policy DM27 and guidance in the National Planning Policy Framework.

Steps Required:

The uPVC windows to be removed and to be replaced with timber windows to a specification to be provided by the Local Planning Authority at the time of issuing the Notice.

Period for Compliance:

Six (6) months from the date the Notice comes into effect.

Grid Ref: 295602 102936

Land at Grid Reference 295600 102934, Fore Street, Silverton, Devon

The condition of the land has been allowed to deteriorate causing adverse effect on the visual amenity of the area.

That the Legal Services Manager be authorised to take any appropriate legal action, including the service of a notice or notices seeking the improvement of the appearance of the land. In addition, in the event of the failure to comply with any notice served, to authorise prosecution, direct action and/or authority to seek a court injunction.

The area of land in question is the site of the old village hall in Silverton. It occupies approximately 620m² of land on the eastern side of Fore Street within the Silverton conservation area.

Site History:

89/00472/LBC	Listed Building Consent for the removal of roof and perimeter walls above first floor cill height	PERMIT
89/00744/FULL	Rebuilding of first floor of Audit Room; demolition of part of Main Hall; conversion of Audit Room and part of Main Hall to form one dwelling and self contained annexe thereto	PERMIT
89/00826/FULL	Listed Building Consent for the rebuilding of first floor of Audit Room, demolition of part of New Hall to rear, conversion of whole to form one dwelling and self contained annexe thereto	PERMIT
89/01100/FULL	Redevelopment of site to form new dwelling	PERMIT
90/00837/FULL	Construction of dwelling following demolition of existing buildings	PERMIT
94/01747/OUT	Outline for the erection of four cottages	REFUSE
94/01748/LBC	Listed Building Consent for the erection of four cottages	WD
95/01220/FULL	Erection of a single residential unit (alternative proposal to application number 4/45/95/1221)	PERMIT
95/01221/FULL	Erection of a single residential unit (renewal of unimplemented and lapsed planning permission 4/45/90/837)	PERMIT
07/00077/FULL	Erection of 5 Dwellings with associated parking	PERMIT
79/00897/FULL	Erection of new small hall, lounge bar and toilets	PERMIT
10/00201/FULL	Application to replace extant planning permission 07/00077/FULL (to extend time limit) Erection of 5 dwellings with associated parking.	PERMIT

Development Plan Policies:

National Planning Policy Framework

NPPF, Decision-taking - Effective enforcement is important as a means of maintaining confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control.

Mid Devon Core Strategy (Local Plan 1)

COR2 - Local Distinctiveness

Mid Devon Local Plan Part 3 (Development Management Policies)

DM31 - Planning Enforcement

Reasons/Material Considerations:

The old village hall site is a vacant plot that has been allowed to deteriorate to the extent its appearance has a negative impact on the local amenity of the area.

The owner has been approached on previous occasions to improve the appearance of the land; specifically the removal of a skip, the clearance of overgrown vegetation and the repair of the low stone wall along the site frontage. The owner has been made aware that the land is within a conservation area. To date there has been a lack of any meaningful response to the Council's requests to properly maintain the land.

It is now your Officers opinion that a section 215 notice be served, requiring the property to be tidied up.

Human Rights and Equality Issues:

The expediency of Enforcement action has been assessed with reference to guidance contained in the National Planning Policy Framework (NPPF). Expediency has also been assessed with regard to the statutory Development Plan, comprising the Core Strategy 2026 (July 2007), the Allocations and Infrastructure Development Plan Policies (January 2011) the Local Plan Part 3 Development Management Policies (October 2013).

When making their decision, Members must have regard to all relevant planning legislation, regulations, guidance, circulars and Council policies. This will enable them to make an informed decision in respect of an application.

In addition, Members should note that the Human Rights Act 1998 (HRA 1998) makes it unlawful for the Council to act incompatibly with Convention rights. Decisions by the Committee must take account of the HRA 1998. Therefore, Members need to be aware of the fact that the HRA 1998 makes the European Convention on Human Rights (the Convention) directly applicable to the actions of public bodies in England and Wales. The specific parts of the Convention relevant to planning matters are Article 6 (right to a fair hearing); Article 8 (right to respect for private and family life); Article 1 of the First Protocol (protection of property) and Article 14 (prohibition of discrimination).

Article 6 deals with procedural fairness. If normal committee procedures are followed, it is unlikely that this article will be breached.

Article 1 of the First Protocol and Article 8 are not absolute rights and infringements of these rights protected under these are allowed in certain defined circumstances, for example where required by law. However any infringement must be proportionate, which means it must achieve a fair balance between the public interest and the private interest infringed and must not go beyond what is needed to achieve its objective.

Article 14 states that the rights under the Convention shall be secured without discrimination on grounds of 'sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status'.

The power to issue an Enforcement Notice is discretionary and should only be used where the Local Planning Authority are satisfied that there has been a breach or breaches of planning control. It must also be satisfied that it is expedient to issue the Notice having regard to the provisions of the Development Plan and to any other material considerations. Consequently the Council must decide based on the particular circumstances of each individual case the question of expediency. The decision to take enforcement action must be reasonable and not based on irrational factors or taken without proper consideration of the relevant facts and planning issues or based on non-planning grounds.

Options for action or remedy:

The list of options available is as follows:

Take no action: - This would not be the appropriate course of action. There is no justification for the land to remain in such a condition and to impair the visual amenity of the area.

Issue a Section 215 Notice seeking works to improve the condition and the appearance of the land - This is considered by your Officers to be the appropriate course of action.

Reasons for Decision:

A Notice is required to be served by the Council under section 215 of the Town and Country Planning Act 1990 because it appears to them that the amenity of part of their area is adversely affected by the condition of the land described within this report.

Steps Required:

The below works are required to be carried out.

1. Remove from the site the skip.
2. Rebuilding the damaged section of the low stone wall fronting the road, height, materials and coping to match the existing remaining wall.
3. Remove from the site, to an authorised place of disposal, all hardcore, waste and demolition materials. Materials to be removed will include bricks, concrete, reinforced concrete, metal, timber, plastic and fabrics.

Period for Compliance:

Twenty eight days from the date the Notice takes effect.

Case No. ENF/11/00034/UCU**Grid Ref:** 290195 97265**Address:**

Langford Park Ltd, Langford Road, Langford, Newton St Cyres

Alleged Breach:

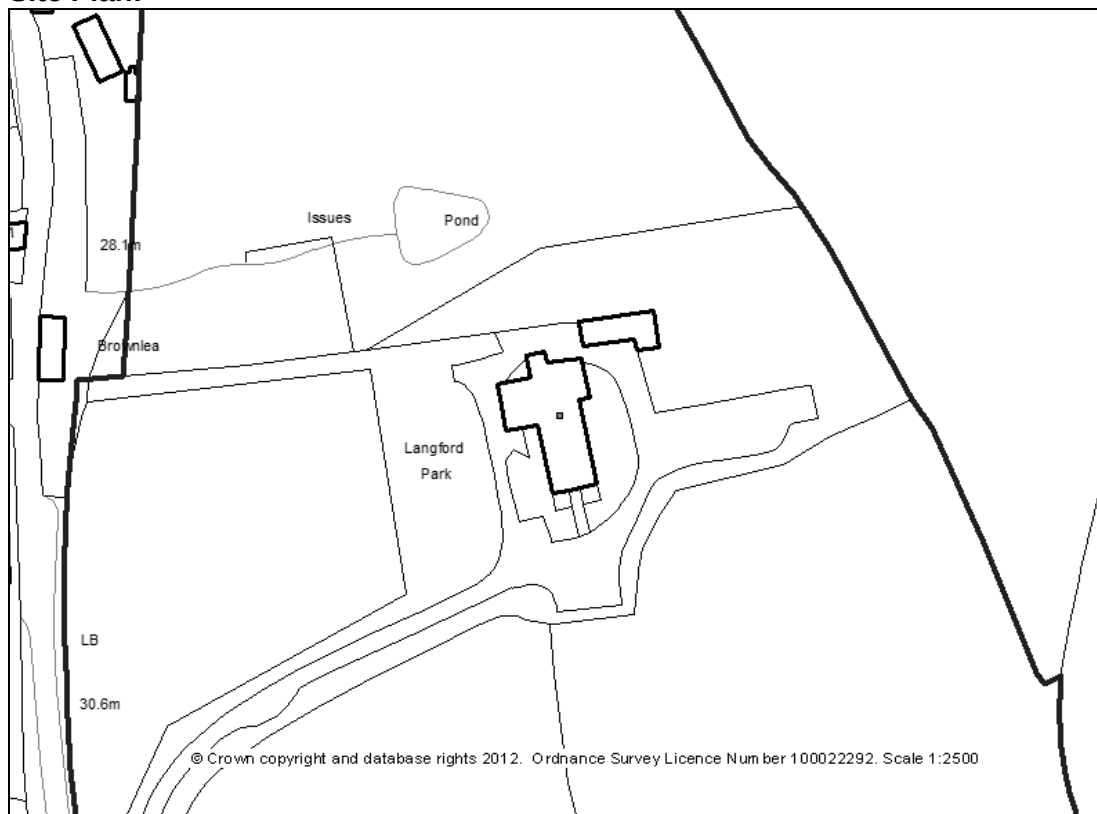
Unauthorised material change of use of land from use as Care Home (Use Class C2) to a mixed use comprising Care Home and use as a caravan site.

Recommendations:

That Members, having regard to the provisions of the Mid Devon Development Plan comprising the Core Strategy 2026 (July 2007), the Allocations and Infrastructure Development Plan Policies (January 2011) the Local Plan Part 3 Development Management Policies (October 2013) and all other material planning considerations in accordance with Section 172, Town and Country Planning Act 1990, (as amended) ("the Act"), should grant authority to the Legal Services Manager to take any appropriate legal action, including the issuing of a change of use enforcement notice, requiring the cessation of the use of the land as a caravan site and for the removal from the land of x 4 caravans, shed(s), decking/veranda, roads and domestic paraphernalia associated with the use of the land as a caravan site.

Site Description:

Langford Park Nursing Home, operated by Langford Park Limited, is a detached brick and stone former farm house comprising 33 rooms. The building stands in extensive landscaped grounds of approximately 2.6 hectares off the A377 Exeter to Crediton road, just outside the village of Newton St Cyres.

Site Plan:

Site History:

86/00665/FULL	Erection of extensions and conversion of existing building to form an additional ten units of accommodation for nursing home	PERMIT
86/01483/FULL	Change of use of second floor flat and staff quarters into nursing home accommodation and formation of dormer windows	PERMIT
87/01484/FULL	Erection of extension to provide two bedrooms and w.cs	PERMIT
88/00780/FULL	Erection of extension to form staff room and office	PERMIT
89/02188/OUT	Outline for the erection of twenty units for homes for the aged	REFUSE
90/01311/FULL	Erection of extension	PERMIT
91/01702/FULL	Erection of boiler house extension	PERMIT
92/01689/FULL	Erection of a conservatory	PERMIT
92/01993/FULL	Erection of four bedroom extension	PERMIT
92/02009/FULL	Erection of porch to north elevation	PERMIT
93/00702/FULL	Erection of extension to form laundry	PERMIT
97/00172/FULL	Alterations to outbuilding (Revised Scheme)	PERMIT
99/02257/FULL	Retention of slate-clad roof extension	REFUSE
99/02959/FULL	Formation of roof extension (Revised Scheme)	PERMIT
04/02526/FULL	Erection of covered access way	PERMIT
77/01677/FULL	Outline application for change of use from store to two units of holiday farmhouse accommodation	PERMIT
78/00449/FULL	Conversion of barn into four holiday flats and provision of new access	PERMIT
80/00800/FULL	Conversion of outbuilding into residential unit	PERMIT
80/01194/FULL	Conversion of existing cider barn into 5 private residential units; construction of garage court and access to Langford Road.	PERMIT
81/02102/FULL	Conversion of outbuilding into 2 units	PERMIT
82/01956/FULL	Conversion of existing house and redundant barn into a registered nursing home, construction of new access drive, car parks and landscaping.	PERMIT

07/00010/FULL	Erection of extension to residents lounge	PERMIT
09/01540/FULL	Erection of a two-storey extension	PERMIT
10/01907/FULL	Conversion of annexe to provide 5 additional bedrooms and retain common room	REFUSE
11/01355/FULL	Conversion and extension of existing outbuilding to provide 6 additional bedrooms for nursing home (Revised Scheme)	PERMIT
12/00398/FULL	Erection of extension	PERMIT
14/01852/FULL	Variation of condition (2) of planning permission 11/01355/FULL to allow the substitution of previously approved plans	PERMIT

Development Plan Policies:

National Planning Policy Framework

The NPPF, Chapter 7, paragraph 55 advises that to promote sustainable development in rural areas, LPA's should avoid new isolated homes in the countryside unless there are special circumstances such as the essential need for a rural worker to live permanently at or near their place of work in the countryside. This aim is reflected in Mid Devon Local Development Framework policies.

NPPF, Decision-taking - "Effective enforcement is important as a means of maintaining confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control.

Mid Devon Core Strategy 2026

COR 17 - Villages

COR 18 - Countryside

Allocations and Infrastructure Development Plan

COR18 - Core Strategy Policy on Countryside

Mid Devon Local Plan Part 3 (Development Management Policies)

Policy DM2 - High quality design

Policy DM10 - Rural workers dwellings

Policy DM31 - Planning enforcement

Reasons/Material Considerations:

The matter was originally brought to the attention of Planning Committee Members on 10 February 2016, when authorisation was granted for the issue of an enforcement notice requiring the removal of four caravans. A recent review of the case highlighted the fact that structures and domestic paraphernalia, not included in the original report, but requiring removal from the land requires your additional authorisation. Consequently, the matter is has been brought to your attention for the additional necessary measures to be considered.

Langford Park Nursing Home was established approximately 31 years ago and now provides accommodation, care and support for up to 34 clients.

As members will note, since 1983, when consent was granted for a change of use of the farmhouse and barn to a 'nursing' home, outbuildings have been upgraded and the former farmhouse building has been extended. These various permissions have enabled the company to provide additional bedrooms or to improve the facilities offered to their clients. However, the very nature of the business in providing 24 hour nursing and support means that care staff need to be available 24/7. To facilitate the opportunity to provide 24 hour care, four caravans (single unit mobile homes) have been sited within the grounds of the nursing home to provide residential accommodation for care workers.

Since 2011, officers have endeavoured to persuade the company to remove the caravans voluntarily. However, the company argued that in order to retain suitable staff, the company was obliged to provide staff accommodation. And that because accommodation for staff is not available in the main building, the company felt obliged to provide accommodation by way of caravans sited on the car park.

Being sympathetic to the companies dilemma, officers suggested that the company provide staff accommodation by way of an extension and recommended they submit an application for the extension and another application seeking to temporarily retain the caravans, until such times as the built accommodation was provided.

Whilst the residential use of a single caravan, by an employee at the care home, may be considered ancillary to primary use of the land, officers are of the opinion that additional residential caravans are unreasonable and constitute a change of use of the land to residential caravan site.

Unfortunately, the discussions, primarily via a planning agent, have not led to the submission of applications. To ensure the use of the land as a residential caravan site does not become immune from enforcement action through passage of time, and following consideration of matters at this since February, Members are requested to authorise enforcement action requiring the removal of the caravans together with the sheds, decking / veranda, footpath routes and domestic paraphernalia associated with the use of the land as a caravan site.

Human Rights and Equality Issues:

The expediency of Enforcement action has been assessed with reference to guidance contained in the National Planning Policy Framework (NPPF). Expediency has also been assessed with regard to the statutory Development Plan, comprising the Core Strategy 2026 (July 2007), the Allocations and Infrastructure Development Plan Policies (January 2011) the Local Plan Part 3 Development Management Policies (October 2013).

When making their decision, Members must have regard to all relevant planning legislation, regulations, guidance, circulars and Council policies.

In addition, Members should note that the Human Rights Act 1998 (HRA 1998) makes it unlawful for the Council to act incompatibly with Convention rights. Decisions by the Committee must take account of the HRA 1998. Therefore, Members need to be aware of the fact that the HRA 1998 makes the European Convention on Human Rights (the Convention) directly applicable to the actions of public bodies in England and Wales. The specific parts of the Convention relevant to planning matters are Article 6 (right to a fair hearing); Article 8 (right to respect for private and family life); Article 1 of the First Protocol (protection of property) and Article 14 (prohibition of discrimination).

Article 6 deals with procedural fairness. If normal committee procedures are followed, it is unlikely that this article will be breached.

Article 1 of the First Protocol and Article 8 are not absolute rights and infringements of these rights protected under these are allowed in certain defined circumstances, for example where required by law. However any infringement must be proportionate, which means it must achieve a fair balance between the public interest and the private interest infringed and must not go beyond what is needed to achieve its objective.

Article 14 states that the rights under the Convention shall be secured without discrimination on grounds of 'sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status'.

The power to issue an Enforcement Notice is discretionary and should only be used where the Local Planning Authority are satisfied that there has been a breach or breaches of planning control. It must also be satisfied that it is expedient to issue the Notice having regard to the provisions of the Development Plan and to any other material considerations. Consequently the Council must decide based on the particular circumstances of each individual case the question of expediency. The decision to take enforcement action must be reasonable and not based on irrational factors or taken without proper consideration of the relevant facts and planning issues or based on non-planning grounds. Enforcement action should not be taken purely to regularise the situation.

Options for action or remedy:

The list of options available is as follows:

Take no action: - This would not be appropriate as it would allow the unauthorised and unacceptable development to remain in situ.

Invite an application to grant consent to regularise the change of use - This again would not be appropriate for the reasons outlined in the body of the report.

Recommendation: Issue an enforcement notice

That Members, having regard to the provisions of the Mid Devon Development Plan and all other material planning considerations in accordance with Section 172, Town and Country Planning Act 1990, (as amended) ("the Act") should grant authority to the Legal Services Manager to issue a material change of use enforcement notice, requiring the cessation of the use the land as a caravan site and for the removal from the land of 4x caravans, shed(s), decking/veranda, footpath routes and domestic paraphernalia associated with the use of the land as a caravan site. In addition, that authority be given to the Legal Services Manager to take any legal action deemed appropriate including prosecution or Direct Action in the event on non-compliance with the notice.

The Requirement of the Notice:

Remove from the land all residential caravans, shed(s), decking/veranda and footpath routes together with all domestic paraphernalia associated with the use of the land as a caravan site.

Reasons for Issuing the Notice:

It appears to the Council that the breach has occurred within the last ten years.

The use of the land as a residential caravan site constitutes unsustainable development in a rural area, where isolated homes are restricted for use by essential rural workers. That need has not been proven. Consequently, the development is contrary to the advice given in the NPPF and reflected in the Mid Devon Development Plan.

The Council do not consider that planning permission should be given, because planning conditions could not overcome these objections to the development.

Period for Compliance:

Six (6) months after the notice takes effect.

Case No. ENF/16/00132/LIS

Grid Ref: 278424 103453

Address:

The curtilage listed Barn at Grid Reference 278425 103453 adjacent to Higher Furzeland, Furzeland Lane, Copplestone, called 'Orchard Barn'.

Alleged Breach:

Without listed building consent the execution of Works for the alteration and extension to the listed building namely the erection of a single storey extension and alterations to the exterior of the building.

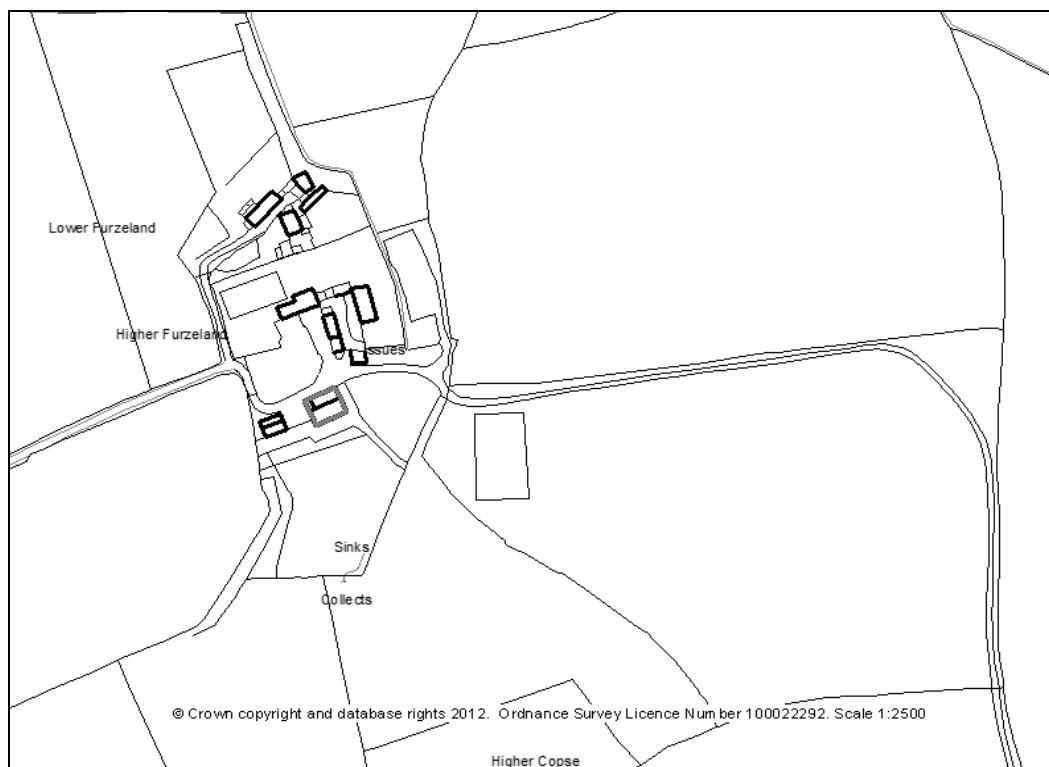
Recommendations:

That Members, having regard to the provisions of the Mid Devon Development Plan comprising the Core Strategy 2026 (July 2007), the Allocations and Infrastructure Development Plan Policies (January 2011) the Local Plan Part 3 Development Management Policies (October 2013) and all other material planning considerations in accordance with Section 38, Planning (Listed Building and Conservation Areas) Act 1990, should grant authority the issuing of a Listed Building Enforcement Notice to remove the unauthorised extension from the cod barn, including the wall plate and the means by which it was attached to the barn and in the event of failure to comply with any notice served, to authorise prosecution, or direct action.

Site Description:

Higher Furzeland is a small farm situated approximately 1.3 km north-east of Copplestone in open countryside within a lower valley location: the smaller hamlet of New Buildings lies just over 1 km to the east. The main farmhouse is Grade II* listed, and the building subject of this report, along with the other traditional farm buildings, is curtilage listed.

Site Plan:



Site History:

91/01020/OTHER	Listed Building Consent for the conversion of nearby barn into a dwelling including demolition of existing corrugated steel and concrete block lean-to.	DELETED
14/01955/FULL	Conversion of former threshing barn to dwelling and erection of replacement extension.	PERMIT
14/01957/LBC	Conversion of former threshing barn to dwelling and erection of replacement extension.	PERMIT

Development Plan Policies:

National Planning Policy Framework

NPPF, Chapter 7: Requiring Good Design. Of which paragraph 56 states: "The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people."

NPPF, Chapter 12: Conserving and Enhancing the Historic Environment. Of which paragraph 132 states: "When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting."

NPPF, Decision-taking - "Effective enforcement is important as a means of maintaining confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control."

Core Strategy 2026

COR2 - Local Distinctiveness

Allocations and Infrastructure Development Plan

COR18 - Core Strategy Policy on Countryside

Mid Devon Local Plan Part 3 (Development Management Policies)

Policy DM2 - High quality design

Policy DM11 - Conversion of rural buildings

Policy DM27 - Development affecting heritage assets

Policy DM31 - Planning enforcement

Reasons/Material Considerations:

On 5 February 2015, planning permission and listed building consent (ref: 14/01955 & 14/01957) was granted for the conversion of former threshing barn to dwelling and erection of replacement extension.

The scheme involved the demolition of a single storey attached agricultural workshop to an elevation of the cob barn. The conversion of the barn to a dwelling and the construction of a single storey side extension to the barn.

The aim of the deliberations culminating in an approved scheme for the change of use of the former threshing barn to a dwelling was the integration of a domestic extension into the fabric the former threshing barn that was both sympathetic to the agricultural nature of the building and also subservient to it. To achieve this, the extension was to have a shallow pitched metal roof projecting from the façade 700mm below the fascia so as to expose a large area of cob. And the bulk of the extension to comprise glass supported by thin black metal frames in order that the extension would appear to recede under the metal roof.

Both the planning permission and listed building consent was conditional and subject to four (4) conditions precedent. The conditions being:

3. Before any development commences, a full specification of works, together with a schedule of works required to secure the safety and stability of the building during the conversion period, shall be agreed in writing by, the Local Planning Authority. Such works shall where necessary include measures to strengthen any wall or vertical surface, to support any floor, roof or horizontal surface, and to provide protection for the building against the weather during the progress of the works. The agreed specification and schedule shall be strictly adhered to during the conversion of the works.

4. Before the commencement of the development hereby permitted details/samples of the materials to be used for all the external surfaces of the building shall be submitted to and approved in writing by the Local Planning Authority.

5. No works shall begin until joinery working details, including sections, mouldings, profiles for all new internal and external doors, windows and internal staircase to include 1:20 scale sample elevations and 1:1 scale joinery profiles, shall have been submitted to, and approved in writing by, the Local Planning Authority prior to their installation. Proposed timber treatment of all proposed external joinery shall also be first submitted to, and approved in writing by the Local Planning Authority prior to its use. Such works shall thereafter be carried out in accordance with such approved details and be so retained.

7. All internal and external plaster/render finishes shall be of lime putty mortar with no cement or other substitutes. No development works shall begin until a sample panel of lime render to be used of between 1 and 2 square metres in size (indicating colour and texture) to be used for the external walls of the building hereby permitted has been provided on site for inspection and agreed in writing by the Local Planning Authority. Such approved materials shall be so used and retained.

At the time of writing this report, none of the above conditions have been discharged. The conditions precedent mean that both the permission and consent to convert the threshing barn cannot not be implemented if the conditions were not discharged and would be technically lost.

In May 2016, it was brought to our attention that an extension had been built onto a side elevation of the former threshing barn. The concern of the caller being that it was bigger than that which was approved.

On 19 May 2016 a planning enforcement officer visited the site, met with the landowner and noted that an extension had been erected on one side of the former threshing. That the extension was not the one shown on the approved drawing - being larger and constructed in materials that differed drastically with those indicated on the approved drawing - dominating the former threshing barn in a way that detracted from the agricultural context of the building and its surroundings.

Section 7 Planning (Listed Buildings and Conservation Areas) Act 1990 ("the Act") states:

"Subject to the following provisions of this Act, no person shall execute or cause to be executed any works for the demolition of a listed building or for its alteration or extension in a manner which

would affect its character as a building of special architectural or historic interest, unless the works are authorised."

Section 9 of the Act states: "If a person contravenes section 7 he shall be guilty of an offence."

The works - the extension - constituted unauthorised works, i.e. a criminal offence. Not because the pre-conditions had not been discharged, but simply because the extension did not have consent. Consequently, the landowner was cautioned in accordance the Police and Criminal Evidence Act, (PACE) and the codes of practice, before any questions were put to him. The landowners response was to say that he did not realise he had done anything wrong and that he changed the design to improve the energy performance rating.

The landowner was advised to carefully remove the unauthorised extension within the next 21 days and reminded that the planning permission and listed building consent for conversion of the barn was subject to pre-conditions, that the conditions had not been discharged, and that work should not be undertaken to convert the barn to a dwelling until the conditions had been discharged. On 26 May 2016, that advice was re-iterated in an email to the landowner.

On 9 June 2016 the site was visited by the enforcement officer accompanied by a Conservation Officer. On site, the conservation officer met with the landowner, viewed the extension and reminded him about the agonising deliberations, involving his architect, English Heritage and MDCC, on the design of the extension. The Conservation Officer advised the landowner how dismayed he was with the decision to go against professional advice and build something alien to the agricultural and historical context of the site.

In a follow up report to the enforcement team, the Conservation Officer stated that he had two main concerns:

1. The pitch of the roof which now masks a large area of the threshing bar. It is important that the extension is subservient to the barn.
2. The windows are raised on a rendered plinth apart from the opening doors. The approval showed floor to ceiling windows in a black thin metal frames. The aim of this was to make it recede under the roof. As constructed it looks like a farm shop and presents very strongly making the extension look as the principle element rather than the barn.

The Conservation Officer is supportive of action to bring about the removal of the unauthorised extension.

Definition of a Listed Building:

Section 1(5) of the Act: "In this Act "listed building" means a building which is for the time being included in a list compiled or approved by the Secretary of State under this section; and for the purposes of this Act—

- (a) any object or structure fixed to the building;
- (b) any object or structure within the curtilage of the building which, although not fixed to the building, forms part of the land and has done so since before 1st July 1948, shall be treated as part of the building.

Human Rights and Equality Issues:

The expediency of Enforcement action has been assessed with reference to guidance contained in the National Planning Policy Framework (NPPF). Expediency has also been assessed with regard to the statutory Development Plan, comprising the Core Strategy 2026 (July 2007), the Allocations and Infrastructure Development Plan Policies (January 2011) the Local Plan Part 3 Development Management Policies (October 2013).

When making their decision, Members must have regard to all relevant planning legislation, regulations, guidance, circulars and Council policies. This will enable them to make an informed decision in respect of an application.

In addition, Members should note that the Human Rights Act 1998 (HRA 1998) makes it unlawful for the Council to act incompatibly with Convention rights. Decisions by the Committee must take account of the HRA 1998. Therefore, Members need to be aware of the fact that the HRA 1998 makes the European Convention on Human Rights (the Convention) directly applicable to the actions of public bodies in England and Wales. The specific parts of the Convention relevant to planning matters are Article 6 (right to a fair hearing); Article 8 (right to respect for private and family life); Article 1 of the First Protocol (protection of property) and Article 14 (prohibition of discrimination).

Article 6 deals with procedural fairness. If normal committee procedures are followed, it is unlikely that this article will be breached.

Article 1 of the First Protocol and Article 8 are not absolute rights and infringements of these rights protected under these are allowed in certain defined circumstances, for example where required by law. However any infringement must be proportionate, which means it must achieve a fair balance between the public interest and the private interest infringed and must not go beyond what is needed to achieve its objective.

Article 14 states that the rights under the Convention shall be secured without discrimination on grounds of 'sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status'.

The power to issue an Enforcement Notice is discretionary and should only be used where the Local Planning Authority are satisfied that there has been a breach or breaches of planning control. It must also be satisfied that it is expedient to issue the Notice having regard to the provisions of the Development Plan and to any other material considerations. Consequently the Council must decide based on the particular circumstances of each individual case the question of expediency. The decision to take enforcement action must be reasonable and not based on irrational factors or taken without proper consideration of the relevant facts and planning issues or based on non-planning grounds.

Options for action or remedy:

The list of options available is as follows:

Take no action: - This would not be appropriate as it would allow the unauthorised and unacceptable extension to remain in situ adversely affecting the character of the curtilage listed barn and its setting adjacent to the Grade II* listed farmhouse.

Invite an application to grant consent to regularise the change of use - This again would not be appropriate for the reasons outlined in the body of the report.

Recommendation: Issue a listed building enforcement notice

That Members, having regard to the provisions of the Mid Devon Development Plan and all other material planning considerations in accordance with Section 38, Planning (Listed Building and Conservation Areas) Act 1990, ("the Act") should grant authority to the Legal Services Manager to issue a Listed Building Enforcement Notice in respect of the alleged breach, which adversely affects the character the building as one of special architectural or historic interest, and also to take any legal action deemed appropriate including prosecution or Direct Action in the event of non-compliance with the notice.

Requirement of the Notice:

Remove the unauthorised extension from the cob barn, including the wall plate and the means by which it was attached to the barn.

Reasons for Issuing the Notice:

The Works relate to a building within the curtilage of a building included on the Statutory List of Buildings of Special Architectural Interest (Grade II*)

The Works constitute unsympathetic and inappropriate alterations which adversely affect the character and appearance of the building. Consequently, the Works are contrary to the advice contained in paragraphs 126 - 141 of the NPPF, Policy COR2 & COR18, Core Strategy, Policies DM2, DM11, DM27 & DM31 Mid Devon Local Plan Part 3.

Period for Compliance:

Twenty-eight (28) days after the notice takes effect.

PLANNING COMMITTEE AGENDA - 6th July 2016

Applications of a non-delegated nature

<u>Item No.</u>	Description
1.	16/00588/HOUSE - Erection of first floor extension with Juliet balcony, detached garage and formation of new access to replace existing at 22 Turnpike, Sampford Peverell, Tiverton. RECOMMENDATION Refuse permission.
2.	16/00665/HOUSE - Erection of single storey rear extension at 11 Chinon Place, Tiverton, Devon. RECOMMENDATION Grant permission subject to conditions.
3.	16/00712/HOUSE - Erection of a single storey rear extension at 5 St Johns Close, Tiverton, Devon. RECOMMENDATION Grant permission subject to conditions.
4.	16/00756/FULL - Erection of gates across existing drive entrance at Old Bartows, Bartows Causeway, Tiverton. RECOMMENDATION Grant permission subject to conditions.
5.	16/00757/LBC - Listed Building Consent for erection of gates across existing drive entrance, installation of ground floor window, and other internal alterations at Old Bartows, Bartows Causeway, Tiverton. RECOMMENDATION Grant Listed Building Consent subject to conditions.

Application No. 16/00588/HOUSE

Plans List No. 1

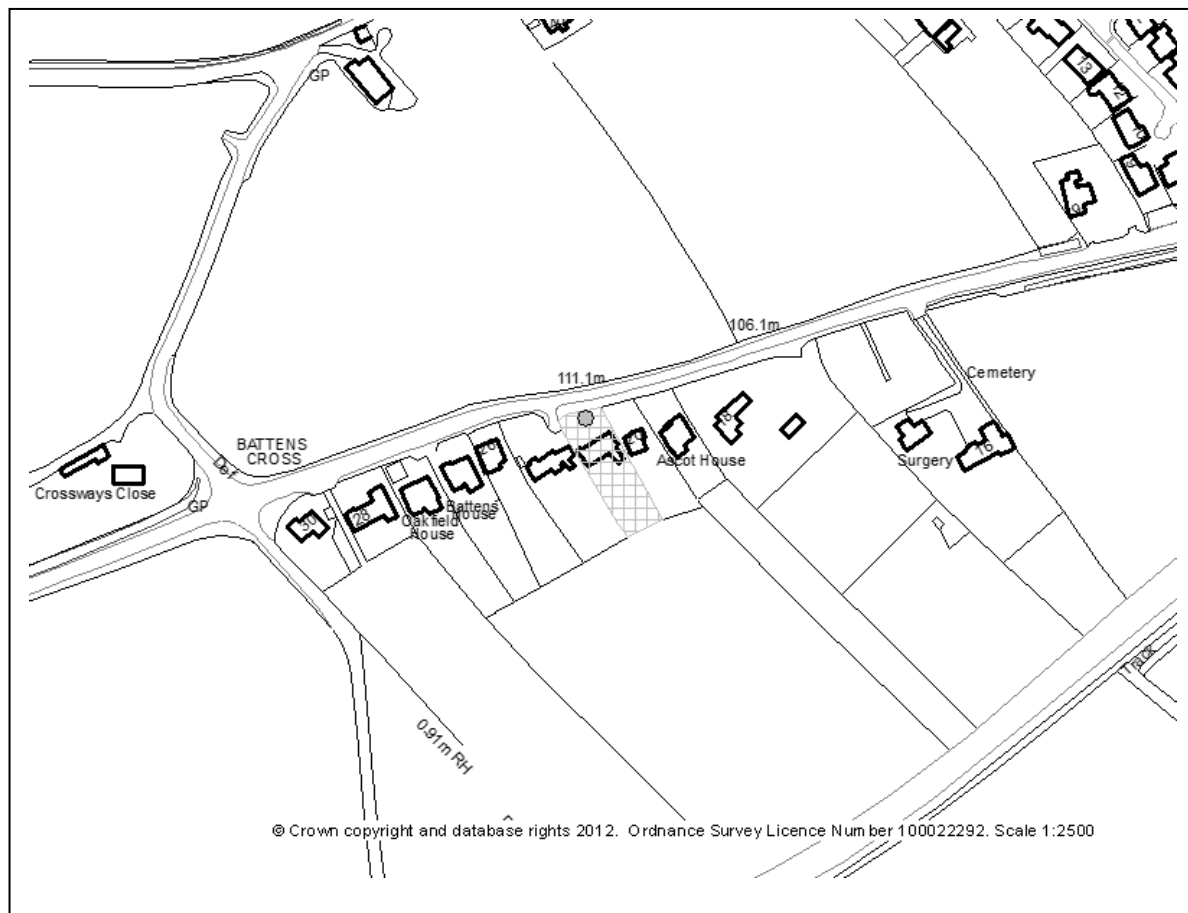
Grid Ref: 302482 : 113960

Applicant: Mr & Mrs Thomas

Location: 22 Turnpike Sampford
Peverell Tiverton Devon

Proposal: Erection of first floor
extension with Juliet
balcony, detached garage
and formation of new
access to replace existing

Date Valid: 21st April 2016



Application No. 16/00588/HOUSE

RECOMMENDATION

Refuse permission.

MEMBERS ARE ASKED TO NOTE THAT THIS IS A HOUSEHOLDER APPLICATION

COUNCILLOR HEATHER BAINBRIDGE HAS REQUESTED THAT THIS APPLICATION BE DETERMINED BY THE PLANNING COMMITTEE FOR THE FOLLOWING REASON:

To consider the impact of the proposal on neighbouring properties

PROPOSED DEVELOPMENT

The proposed development is for the erection of first floor extension with Juliet balcony, detached garage and formation of new access to replace existing at 22 Turnpike, Sampford Peverell.

The existing dwelling is a two storey detached property with internal garage. A previous application (planning reference: 16/00164/HOUSE) granted consent for the erection of first floor extension, conversion of existing garage to annexe and alterations to the roof. This application is the second phase of development proposed on the site which seeks permission to erect a first floor extension with pitched roof and Juliet balcony looking towards the existing flat roof single storey sun room to the rear of the dwelling (the sun room has consent to be converted to an annexe). A new access to the site and a large detached garage to the front of the property are proposed. The proposed works to the dwelling will allow for the formation of additional living accommodation in the form of an additional bedroom with dressing area, bathroom and office at first floor level.

Through the course of this application revisions have been made to try to lessen some of the impacts of the proposed development upon the adjacent property No.20 Turnpike. The main revisions have included bringing the southern end of the first floor extension back by approximately 2 metres and dropping the height of the pitched roof by approximately 0.6 metres to be lower than that of the approved dormers. No balcony is now proposed upon the flat roof of the existing sun room. Instead a Juliet balcony is proposed in the large opening of the main bedroom. In the extension, facing south towards the rear of the property. The garage has also been re-sited to allow more of a gap between the back of the proposed garage and the boundary.

The proposed extension measures 3 metres in width x 6.5 metres in length (totalling 19.5 square metres of additional living space). The height of the proposed extension would bring the flat roof element from 2.8 metres as existing to 4 metres to proposed eaves level with an overall height to proposed ridge level of 6 metres. There is proposed to be a 2 metre section of flat roof retained at the rear southern end of the extension.

The existing access to the site is shared with the neighbouring property (No. 24 Turnpike). The new access is proposed further to the east of the site and is proposed to serve only the application site of 22 Turnpike. A detached pitched roof garage is proposed to the front of the property. The garage is proposed to measure 6.5 metres in width x 7.5 metres in depth. A first floor is proposed to provide additional storage. One garage door, 1 single access door and 4 rooflights are proposed. The height of the proposed garage to eaves level is 2.7 metres and overall height to ridge level is 5.9 metres.

APPLICANT'S SUPPORTING INFORMATION

Site location plan, block plan, plan showing shadow lines of proposed development, new access and parking plan, existing floor plans and section plan, existing elevations plan, proposed ground floor plan, proposed first floor plan, proposed elevations plan, garage floor plans and elevations plan, section plans, photographs, and statement from landscape architect.

PLANNING HISTORY

16/00164/HOUSE Erection of first floor extension, conversion of existing garage & sun lounge with alterations to roof - PERMIT

DEVELOPMENT PLAN POLICIES

Mid Devon Core Strategy (Local Plan 1)

COR18 - Countryside

Mid Devon Local Plan Part 3 (Development Management Policies)

DM2 - High quality design

DM8 - Parking

DM13 - Residential extensions and ancillary development

CONSULTATIONS

SAMPFORD PEVERELL PARISH COUNCIL - 13th June 2016 - Sampford Peverell Parish Council has considered the revised plans submitted in connection with this application. Our planning sub-committee has discussed them and has concluded that we should maintain our objection to the application. We acknowledge that the revised plans go some way towards reducing the impact on the neighbouring property, but we do not feel that they entirely remove it. We therefore object to the application on the grounds set out in our previous comments dated 9 May 2016.

SAMPFORD PEVERELL PARISH COUNCIL - 9th May 2016 - Sampford Peverell Parish Council objects to this application.

A planning sub-committee conducted a site visit and spoke to both the applicant and the owner of the neighbouring property. We consider that the application does not meet the requirements of DM13 of the Local Plan Part 3 in that it will adversely impact upon the living conditions of occupants of the neighbouring property.

Although it is not clear from the submitted plans, 22 Turnpike is raised above the level of the property at 20 Turnpike. The garden of 20 Turnpike slopes steeply downhill, so looking from 20's garden up at the present extension of 22, it already looks high: another storey will make it look very dominant. The existing single storey extension to the rear of 22 Turnpike is very close to the boundary between the two properties. Adding an extra storey to that extension would, in our opinion, lead to an overbearing effect on 20 Turnpike, as well as reducing natural light levels in that property. There will also be a considerable loss of privacy. We thought it would be difficult for the necessary building work to be done without causing significant disturbance to 20 Turnpike.

For all these reasons we are unable to support the application in its current form. We hope that an alternative scheme can be devised to give the applicant the extra accommodation required without the adverse effects upon the neighbouring property.

Sampford Peverell Parish Council does not therefore support the application in its present form.

HIGHWAY AUTHORITY - 7th June 2016 - The Highway Authority has viewed the revised drawing and subject to the drawing being conditioned I would raise no objections. The applicant is reminded of the need to apply for a vehicle crossing licence to carry out the works on or adjacent to the public highway.

HIGHWAY AUTHORITY - 28th April 2016

The Highway Authority has visited the site and the existing visibilities are below standard for the speed of vehicles. The proposed location of the access will exacerbate this situation in its current design and would

not be acceptable to the Highway Authority. However the applicant has within the boundaries of the site the ability to provide such benefit as to accept the revised access location. While this will not achieve the full standards it would be a benefit to all users and adjacent properties, more over if the owner of the property to the north were willing to remove some vegetation and make alterations to their boundary wall a full visibility could be achieved. Therefore the Highway Authority would seek an amended plan from the applicant incorporating the following and the following conditions should be imposed.

- Visibility splays measuring 2.4m back along the centre line of the new access and extending parallel over the entire frontage with no obstruction greater than 1.0m above the road surface should be provided (please note the relocation of the Telegraph Pole is not considered necessary in this instance).

- The access shall be hard surfaced in a bound material (tarmac, concrete, block etc.) no loose stones or chippings for the first 6.00m. The Highway Authority would accept the area between the two drains, which for avoidance of doubt are acceptable and necessary.

- Plan 01371/11 should be conditioned for parking and turning.

Recommendation:

THE HEAD OF PLANNING, TRANSPORTATION AND ENVIRONMENT, ON BEHALF OF DEVON COUNTY COUNCIL, AS LOCAL HIGHWAY AUTHORITY, MAY WISH TO RECOMMEND CONDITIONS ON ANY GRANT OF PLANNING PERMISSION.

1. The frontage of the site shall be set back 2.4 metres from the nearer edge of the existing carriageway and the land in front of this new boundary shall be cleared of any obstruction to visibility and the level reduced to 1000 mm above the carriageway level.

REASON: To provide adequate visibility from and of emerging vehicles and to allow for future improvement of the road.

2. The site access road shall be hardened, surfaced, drained and maintained thereafter to the satisfaction of the Local Planning Authority for a distance of not less than 6.00 metres back from its junction with the public highway or between the two drains as shown on plan 01371/11.

REASON: To prevent mud and other debris being carried onto the public highway.

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

REASON: In the interest of public safety and to prevent damage to the highway.

4. No development shall take place until details of the layout and construction of the access have been submitted to and approved in writing by the County Planning Authority.

REASON: To ensure the layout and construction of the access is safe in accordance with paragraph 32 of NPPF.

ENVIRONMENT AGENCY - 17th June 2016 - Householder development and alterations within Flood Zone 1 - No EA consultation required.

REPRESENTATIONS

One letter of representation has been received from the neighbouring property to the east of the application site (No. 20 Turnpike). The main issues contained in the letter of objection are summarised below:

1. The extension is a significant addition to the property and cannot be considered as subservient;
2. The extension would not relate well to the character, scale or setting of the host dwelling;
3. The extension would be an unacceptably over dominant, overbearing and oppressive development;
4. Would cause significant harm to the living conditions of occupants of neighbouring property;
5. Would give rise to significant and unacceptable level of overshadowing;
6. Loss of light/ shadowing affecting neighbouring properties amenity and enjoyment of property, terrace and garden;
7. Overdevelopment of the site along the boundary;
8. Balcony would give clear views of the neighbours garden from elevated position removing privacy;
9. Would make garden unpleasant to use;
10. Garage being so close to the boundary would be detrimental on the health of trees;
11. Would not want to remove part of the wall/ trees to accommodate the neighbour's proposed new access.

Following the revised plans the neighbours were consulted and further comments were given as follows:

1. The extension is still considered to be over dominant, overbearing and oppressive as it is so close to the boundary;
2. Would cause significant harm in terms of overshadowing, excessive overlooking, removing any privacy, amenity and enjoyment of the property;
3. The new two storey element would appear over dominant on the host building when viewed from the rear due to the substantial slope of the gardens;
4. The proposed garage to the front of the property is large and would appear over dominant and incongruous in the street scene, to the detriment of the character and appearance of the semi-rural area.

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The main issues in the determination of this application are:

1. **The principle of development on the site**
2. **Whether the proposal complies with the criteria of policies DM2 (High quality design) and DM13 (Residential extensions and ancillary accommodation)**
3. **Access and parking**

1. The principle of development on the site

The dwelling subject to this application is not located within a defined settlement limit as set out in the Mid Devon Local Plan Part 1 (Core Strategy). The site is therefore considered to be located in the open countryside as defined by COR18 of the Mid Devon Core Strategy. Policy COR18 strictly controls development outside of settlements defined by COR13-17; limiting development to appropriately scaled and designed extensions and other physical alterations to existing buildings.

Development Management Policies as set out in the Mid Devon Local Plan part 3 further support residential extensions and ancillary development subject to specific criteria contained in policies DM2 (High quality design) and DM13 (Residential extensions and ancillary development). An assessment of the application scheme against these policies can be found in the below section of this report.

2. Whether the proposal complies with the criteria of policies DM2 (High quality design) and DM13 (Residential extensions and ancillary accommodation)

DM13 of the Local Plan part 3 (Development Management Policies) deals with residential extensions and ancillary development. The policy permits extensions to existing dwellings and other ancillary development provided that they meet the following criteria:

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

properties.

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

- A) The proposed erection of first floor extension with Juliet balcony is not considered to respect the character, scale or setting of the existing dwelling. The proposed extension is to be erected above the existing sun lounge to the rear of the property. The scale of the proposed scheme is very large when compared to the rest of the dwelling and its location so close to the boundary line exacerbates this further. The design of the proposed extension is not considered to be of a high quality. The movement of the first floor extension back now leaves a 2m x 3m section of flat roof which appears out of keeping with the rest of the design. Even with the installation of a Juliet balcony, without a condition to limit the use, there is nothing to stop the flat roof from being used to sit or stand on. The side elevation of the extension facing the side of the neighbouring properties has no window or door openings shown on the plans. As such the neighbouring property has a view of a very large blank wall. As such the application scheme is not considered to be supportable due to the overbearing, over dominant and oppressive scale of the first floor extension. The design of the extension is also not considered supportable due to the mass of the large blank wall as seen from the neighbouring property and the section of flat roof in front of the Juliet balcony.
- B) The property enjoys a reasonable size curtilage to both the front and rear of the property. The curtilage is considered to be sufficient to support the proposed development and parking provision in terms of the additional floor space to be utilised within the plot. It is not considered that the proposed development would result in the over-development of the dwelling curtilage in the sense that this criteria of DM13 is intended, however it is considered that the scale and setting of the proposed development would result in an overdevelopment of the boundary when assessed against the adjacent neighbouring property.
- C) The existing single storey flat roof extension already causes some issues with light loss and overbearing impact particularly for the side windows of No. 20 Turnpike. No. 22 Turnpike is set at a higher level than that of the neighbouring property No. 20 Turnpike. The application scheme proposes to build a further storey with pitched roof on top of the existing arrangement which would further the overbearing nature of the development so close to the boundary line to an unacceptable level. The introduction of the first floor with pitched roof will create shadowing across the garden throughout the day above the existing arrangement and will lead to an unacceptable level of loss of privacy and overlooking which is particularly evident in the area most used by occupiers of the neighbouring property to the rear of No. 20 Turnpike. As mentioned above, without a condition, there is nothing to stop the flat section of roof to the front of the Juliet balcony from being used to sit or stand on. The full length doors are considered to result in overlooking resulting in loss of privacy and amenity for the occupants of the neighbouring property. A distance of approximately 4.1 metres separates the properties (No's 20 & 22). The proposed extension is approximately 2 metres from the side boundary where there is some vegetation. This vegetation is not considered sufficient to adequately surround views from the proposed extension.

Further to policy DM13, DM2 of the Local Plan part 3 (Development Management Policies) seeks high quality design stating that designs of new development must be of high quality bases upon and demonstrating certain principles including:

- a) Clear understanding of the characteristics of the site, its wider context and the surrounding area;
- b) Efficient and effective use of the site, having regard to criterion (a);
- e) Visually attractive places that are well integrated with surrounding buildings, streets and landscapes, and do not have an unacceptably adverse effect on the privacy and amenity of the proposed or neighbouring properties and uses, taking account of:
 - ii) Siting, layout, scale and massing
 - iii) Orientation and fenestration.

It is not considered that the proposal has considered the characteristics of the site and the varying levels and topography between No's 20 and 22 Turnpike. This lack of understanding has led to a design which has been revised to attempt to balance some of the impacts of the proposal to a level which is still considered to be unacceptable in terms of height and its overbearing nature on the neighbouring property. The large floor

length doors with Juliet balcony on the rear elevation at first floor level is considered to result in a significant loss of privacy for occupants of the neighbouring property, particularly the section of garden directly to the rear of the neighbours property which is most likely to be used by the occupants of the property.

In terms of the efficient and effective use of the site, it is not considered that the proposal has used the site effectively by simply building on top of an existing flat roof extension so close to the boundary between the site and the neighbouring property. As mentioned previously, the site enjoys a reasonable sized garden to both the front and rear which is considered to be more than sufficient to accommodate the needed accommodation by the application. The current location of the extension and first floor nature of the development is not considered appropriate given the amount of potential options for extension and development on the site.

The proposal does not integrate well with the surrounding buildings; in particular the neighbouring property of No. 20 Turnpike. Criteria (e) of policy DM2 requires that development should be well integrated with surrounding buildings and should not have an unacceptably adverse effect on the privacy and amenity of the neighbouring properties; particularly in terms of sub-criteria (ii) and (iii) which deal with the scale and massing and fenestration of new development. As mentioned in the assessment of the proposal against policy DM13 of the Local Plan part 3 (Development management policies), the proposal strongly conflicts with policies DM2 and DM13.

3. Access and parking

Policy DM8 of the Local Plan Part 3 deals with parking. The application scheme has set out 2 car parking spaces to be used by the proposed dwelling which is in accordance with the standard of 1.7 car parking spaces per residential dwelling. The turning and manoeuvring area between the new proposed access, new proposed garage and dwelling is considered to be acceptable and the Highway Authority has made no comments suggesting issues with the revised access and garage plan.

REASONS FOR REFUSAL

1. In the opinion of the Local Planning Authority, it is considered that the proposed first floor extension above the existing single storey flat extension to the rear of the property would have unacceptable adverse impacts on the amenity of the occupiers of the neighbouring property (No. 20 Turnpike). On the rear southern end of the extension is proposed a Juliet balcony which would allow views overlooking the neighbouring garden; removing privacy and enjoyment of the terrace and garden to an unacceptable degree. The application scheme is therefore not considered to comply with the criteria set out in policies DM2 and DM13 of the LP3 DMP which require high quality design and extensions and other ancillary development to be of a suitable design which does not impact negatively on the privacy and/or amenity of neighbouring properties.
2. In the opinion of the Local Planning Authority, it is considered that the proposed first floor extension would be dominant in scale and massing when viewed from the neighbouring dwelling (No. 20 Turnpike), when compared to the existing dwelling. The proposed extension would create a first floor with pitched roof over the existing flat roof single storey rear projection from the main mass of the dwelling, close to the boundary with the neighbouring dwelling. The total height of the proposed extension would increase from 2.8 metres to 6.5 metres, an increase of 3.7 metres which, due to the lower level of the neighbouring property, would be approximately 7 metres in height when viewed from the neighbouring property, and represent an overbearing structure close to the boundary. The application scheme is therefore not considered to comply with the criteria set out in policies DM2 and DM13 of the LP3 DMP which require design to be of a high quality and extensions and other ancillary development to be of suitable scale, massing and design and not to impact negatively on neighbouring properties.

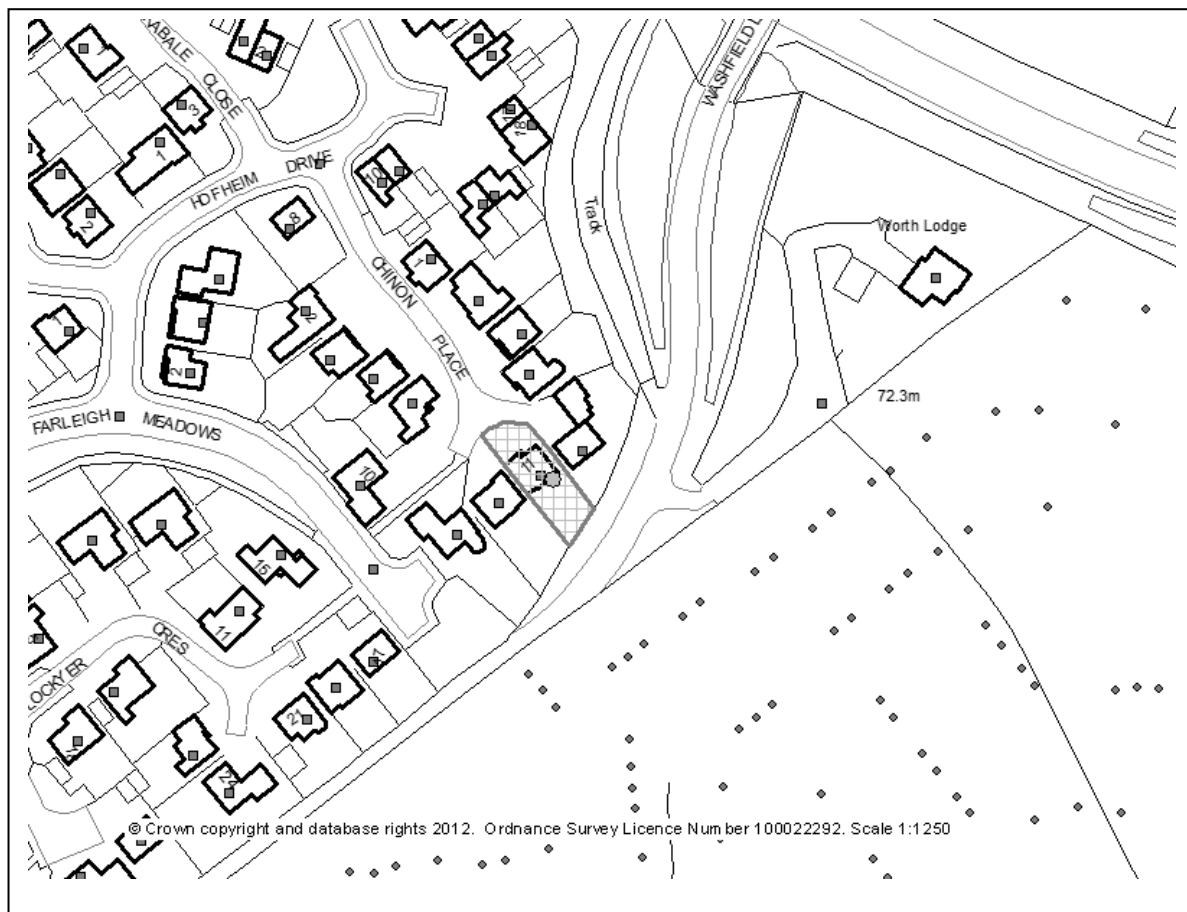
Grid Ref: 294493 : 113715

Applicant: Mr D Sanders

Location: 11 Chinon Place
Tiverton Devon EX16
5QE

Proposal: Erection of single
storey rear extension

Date Valid: 3rd May 2016



Application No. 16/00665/HOUSE

RECOMMENDATION

Grant permission subject to conditions.

MEMBERS ARE ASKED TO NOTE THAT THIS IS A HOUSEHOLDER APPLICATION

PROPOSED DEVELOPMENT

This application proposes the erection of a single storey rear extension at 11 Chinon Place, Tiverton, EX16 5QE. The proposed extension will measure approximately 2.5 metres in length x 6.2metres in width. The height of the proposal measures 3.4metres to the abutment and 2.4metres to the eaves. The materials proposed to be used within the scheme will match those used within the existing dwellinghouse, these include brick walling, a tile roof and uPVC windows and doors.

This property has permitted development rights removed.

APPLICANT'S SUPPORTING INFORMATION

None

PLANNING HISTORY

86/00080/FULL Erection of dwellings with garages, drainage and access roads thereto (revised drawings) - PERMIT

DEVELOPMENT PLAN POLICIES

Mid Devon Core Strategy (Local Plan 1)

COR2 - Local Distinctiveness

COR13 - Tiverton

Mid Devon Local Plan Part 3 (Development Management Policies)

DM2 - High quality design

DM13 - Residential extensions and ancillary development

CONSULTATIONS

TIVERTON TOWN COUNCIL - 18th May 2016 - Support

HIGHWAY AUTHORITY - 6th May 2016 - No comments

ENVIRONMENT AGENCY - 9th June 2016 - Householder development and alterations within Flood Zone 1
- No EA consultation required.

REPRESENTATIONS

None received on the date of officer report (07/06/2016)

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The principal of appropriately scaled and designed extensions and ancillary development within Tiverton is

established by COR13 of the Mid Devon Core Strategy. More specifically, policy DM13 deals with residential extensions and ancillary development, and supports this development subject to the following criteria;

- a) The proposal respects the character, scale, setting and design of 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.

The above criteria are considered to be the material planning considerations in this case, and a summary assessment of the application scheme is set out below;

- a) The proposed extension is minor in its scale and is not considered to negatively impact on the character and appearance of the existing dwelling or the surrounding area. This is supported by the reasonable screening surrounding the site and the use of matching materials to those used in the construction of the existing dwelling.
- b) The property has a reasonable garden, and this extension is not considered to result in an over development of the curtilage.
- c) Given the scale of the proposal and its relationship to the neighbouring properties it is not considered that it would result in a significant adverse impact to neighbouring amenity. This includes overbearing impacts, loss of light and loss of privacy.

There are not considered to be any other material considerations to weight against the grant of planning permission.

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.

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.

REASON FOR APPROVAL OF PERMISSION/GRANT OF CONSENT

In the opinion of the Local Planning Authority, the proposed single storey rear extension is considered to be supportable in policy terms. The proposal is considered to respect the character, scale, setting and design of the existing dwelling and given its scale is not considered that it would result in overdevelopment of the dwelling curtilage. Given the scale of the extension and the nature of the proposal, it is not considered that it would result in any significant adverse amenity impacts on the neighbouring properties. The proposed development is considered to be in accordance with the following policies: COR2 and COR13 of the Mid Devon Core Strategy (Local Plan part 1), DM1, DM2, DM13 of the Local Plan Part 3 (Development Management Policies) and government advice in the National Planning Policy Framework.

Grid Ref: 296470 : 113628

Applicant: Mr R Galt

Location: 5 St Johns Close
Tiverton Devon EX16
6XD

Proposal: Erection of a single
storey rear extension

Date Valid: 16th May 2016



Application No. 16/00712/HOUSE

RECOMMENDATION

Grant permission subject to conditions.

MEMBERS ARE ASKED TO NOTE THAT THIS IS A HOUSEHOLDER APPLICATION

PROPOSED DEVELOPMENT

The proposal is for the erection of a single storey rear extension to 5 St. Johns Close, Tiverton. The site comprises an existing two storey detached dwelling on a modern estate in Tiverton constructed approximately 10 years ago. The proposed extension will project 4 metres from the rear elevation to a width of 4 metres, with an eaves height of 2.4 metres and ridge of 3.48 metres. The extension will have brick walls, white uPVC doors and windows and brown double Roman interlocking concrete roof tiles.

APPLICANT'S SUPPORTING INFORMATION

None

PLANNING HISTORY

01/00328/OUT Outline application for residential development - PERMIT

DEVELOPMENT PLAN POLICIES

Mid Devon Core Strategy (Local Plan 1)

COR2 - Local Distinctiveness

COR13 - Tiverton

Mid Devon Local Plan Part 3 (Development Management Policies)

DM2 - High quality design

DM13 - Residential extensions and ancillary development

CONSULTATIONS

TIVERTON TOWN COUNCIL - 9th June 2016 - Support

HIGHWAY AUTHORITY - 23rd May 2016 - No comments

ENVIRONMENT AGENCY - 20th June 2016 - Householder development and alterations within Flood Zone 1 - No EA consultation required.

REPRESENTATIONS

None received at the time of writing this report.

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The main issues in the determination of this application:

- 1. Whether the proposal respects the character, scale, setting and design of the existing dwelling**
- 2. Whether the proposal results in overdevelopment of the site**

3. Impact on the privacy and amenity of neighbouring properties

1. Whether the proposal respects the character, scale, setting and design of the existing dwelling

The principal policy against which the proposal is to be considered is DM13 'Residential extensions and ancillary development'. Criterion a) of the policy states that extensions will be permitted where they respect the character, scale, setting and design of the existing dwelling. The proposed extension will use materials to match the existing, including white uPVC windows, doors soffits and fascias, red brickwork walls and concrete double Roman tiles. The scale of the proposal is modest, and will provide only 12.5 square metres additional internal floorspace on the ground floor. The design is typical of a modest extension to a recently constructed estate house and is considered appropriate. Overall the proposal is considered acceptable in terms of its size, scale, design and overall compatibility with the existing dwelling. The proposal is considered to be policy compliant with criterion a) of DM13.

2. Whether the proposal results in overdevelopment of the site

The proposed development will extend on to land which forms the rear garden of the property. The dwelling only benefits from a modest garden to the rear, measuring approximately 8 metres in depth from the rear elevation of the property. The garden wraps around the east elevation of the property, providing a strip of land adjoining the house, but which by its narrowness is of much more limited use (generally usable for storage only). The size of the garden is not untypical of houses within the immediate area, being somewhere in the order of 65-70 square metres inclusive of the strip to the side. The extension would result in a loss of approximately 25% of the garden land, and a higher proportion if excluding the land to the side. It is considered that the loss of land is on the edge of acceptability, and that had the proposal been any greater refusal would have been sought. Had permitted development rights not been removed for all the houses on the estate, then the scale of the proposal (and larger proposals) would have been allowable without the need for permission from the local planning authority. This consideration has been weighed in the balance and overall it is not considered that the loss would merit refusal alone. Criterion b) of DM13 is considered satisfied.

3. Impact on the privacy and amenity of neighbouring properties

The final criterion of DM13 considers the impact on the privacy and amenity of neighbouring properties. Policy DM2 also considers the impact of proposals on the privacy and amenity of the proposed/extended property. The nearest neighbours are no. 3 St Johns Close to the east and no's 7 and 9 to the west. Only the rear second storey windows of no. 9 currently overlook the rear garden to some extent, whilst no. 7 primarily looks on the gable end of the application dwelling. Tree cover along the boundary between 3 and 5 largely screens views between the properties. Being only a single storey extension, there is little in the way of an impact in terms of privacy/overlooking towards neighbouring properties. No rooflights are proposed, nor is there to be any windows on the elevation facing no. 9 so that the privacy of the occupants of the extended property will not be detrimentally affected. A window and French doors are proposed on the north and east elevations of the extension respectively, but these look either out on the garage (owned by the applicants) at the rear, or over the garden and towards the fence/tree boundary with the neighbouring property. Overall, the proposal is not considered to have an unacceptable impact on privacy or amenity and criterion c) is considered satisfied.

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.

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.

REASON FOR APPROVAL OF PERMISSION/GRANT OF CONSENT

The proposed development for the erection of a single storey rear extension is considered to respect the character, scale, setting and design of the existing dwelling. Whilst the proposal does result in the partial loss of only a modest sized garden this is not considered sufficient to warrant refusal alone. It is not considered that there would be any significant adverse impacts on the living conditions of the occupants of neighbouring properties or the proposed extended property. Overall, the proposal is considered to comply with the following policies: COR2 and COR13 of the Mid Devon Core Strategy, DM2 and DM13 of the Local Plan Part 3 (Development Management Policies) and the National Planning Policy Framework.

Application No. 16/00756/FULL

Plans List No. 4

Grid Ref: 295613 : 113044

Applicant: Mr S Flaws

Location: Old Bartows Bartows
Causeway Tiverton
Devon

Proposal: Erection of gates
across existing drive
entrance

Date Valid: 23rd May 2016



Application No. 16/00756/FULL

RECOMMENDATION

Grant permission subject to conditions.

PROPOSED DEVELOPMENT

Erection of gates across existing drive entrance

APPLICANT'S SUPPORTING INFORMATION

Photographs

Location plan

Block plan

Design and Access statement

Justification and schedule of works

Heritage statement

Scaled drawings: proposed entrance gate (one of pair); existing ground floor and elevation 0028/1; proposed ground floor and elevation 0028/2; existing and proposed first floor plan 0029/3

PLANNING HISTORY

93/01849/FULL - Change of use from dwelling to day centre for people with learning disabilities and provision of on site parking - NOBJ

95/00130/CAC - Conservation area consent for the demolition of defective cob and timber framed external walls and their reinstatement with blockwork cavity walls and render (County Matter) - PERMIT

16/00392/FULL - Change of use of former day centre to single residential dwelling - PERMIT

16/00757/LBC - Listed building consent for erection of gates across existing drive entrance, installation of ground floor window and other internal alterations - PENDING

DEVELOPMENT PLAN POLICIES

Mid Devon Local Plan Part 3 (Development Management Policies)

DM2 - High quality design

DM27 - Development affecting heritage assets

CONSULTATIONS

HIGHWAY AUTHORITY - 25th May 2016 - Standing advice applies please see Devon County Council document <http://www.devon.gov.uk/highways-standingadvice.pdf>

ENVIRONMENT AGENCY - 17th June 2016 - Operational development less than 1ha within Flood Zone 1 - No consultation required - see surface water management good practice advice - see standard comment.

TIVERTON TOWN COUNCIL - 9th June 2016 - Support

REPRESENTATIONS

None

MATERIAL CONSIDERATIONS AND OBSERVATIONS

This application relates to a detached listed building (grade II) lying in Tiverton conservation area. The proposal is to erect a pair of timber entrance gates at the entrance to the drive. A listed building consent application has also been submitted for these works as well as other alterations to the house.

Old Bartow's is thought to date from the early 19th century but may have earlier origins. It is an elegant property set back from the road in reasonable sized gardens. The rear wall of the house forms its rear boundary. To the front are gardens and a parking area. The property has high boundary walls on three sides. Until recently it was used as a day centre for those with learning difficulties but received permission for use as a single dwelling in 2015. The building was listed formally in 2000 some time after the initial survey was carried out by English Heritage inspectors. Between the survey and the formal listing, extensive works were carried out to the building including the near entire stripping out of the interior and its historic features (fire places, joinery, staircases etc.) as well as the replacement of all timber sash windows with uPVC windows. This was entirely within the law but has resulted in the unusual circumstances of the list description not matching the house and a substantially altered building being listed grade II. Pre-application advice was provided for this application by the conservation officer.

The entrance to the houses is currently open with no gates on the driveway. The gates proposed will provide a degree of security and privacy for the house. They are two metres high at their highest point, timber with timber posts. They are set slightly into the site to provide a pull-in space off the highway. The gates are a simple design that is considered appropriate and which will not cause any harm to the setting of the listed building.

The works are considered to be reasonable and will not cause harm to the setting of the listed building. The impact on street scene is minimal and will likely enhance the appearance of the property in its context. No other houses or neighbours are affected by the proposal - the existing dropped kerb and entrance remain and no on-street car parking spaces will be lost through the development. The works are clearly outlined in the application and it is not considered necessary to add any conditions other than those relating to time period and conformity.

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.

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.

REASON FOR APPROVAL OF PERMISSION/GRANT OF CONSENT

The proposed development is considered to be acceptable and will not negatively impact on neighbours, character or amenity, visual quality or the setting of the listed building. The proposal is therefore in accordance with the Mid Devon Local Plan (Part 3) policy DM5 and 27 and the National Planning Policy Framework and should be granted consent.

Application No. 16/00757/LBC

Plans List No. 5

Grid Ref: 295613 : 113044

Applicant: Mr S Flaws

Location: Old Bartows Bartows Causeway
Tiverton Devon

Proposal: Listed Building Consent for
erection of gates across existing
drive entrance, installation of
ground floor window, and other
internal alterations

Date Valid: 23rd May 2016



Application No. 16/00757/LBC

RECOMMENDATION

Grant Listed Building Consent subject to conditions.

PROPOSED DEVELOPMENT

Listed building consent for erection of gates across existing drive entrance, installation of ground floor window and other internal alterations

APPLICANT'S SUPPORTING INFORMATION

Photographs

Location plan

Block plan

Design and Access statement

Justification and schedule of works

Heritage statement

Scaled drawings: proposed entrance gate (one of pair); existing round floor and elevation 0028/1; proposed ground floor and elevation 0028/2; existing and proposed first floor plan 0029/3

PLANNING HISTORY

93/01849/FULL - Change of use from dwelling to day centre for people with learning disabilities and provision of on site parking - NOBJ

95/00130/CAC - Conservation area consent for the demolition of defective cob and timber framed external walls and their reinstatement with blockwork cavity walls and render (County Matter) - PERMIT

16/00392/FULL - Change of use of former day centre to single residential dwelling - PERMIT

16/00756/FULL - Erection of gates across entrance drove - PENDING

DEVELOPMENT PLAN POLICIES

Mid Devon Local Plan Part 3 (Development Management Policies)

DM27 - Development affecting heritage assets

CONSULTATIONS

TIVERTON TOWN COUNCIL - 9th June 2016 - Support

REPRESENTATIONS

None

MATERIAL CONSIDERATIONS AND OBSERVATIONS

This application relates to a detached listed building (grade II) lying in Tiverton conservation area. The proposals are to erect a pair of timber entrance gates at the entrance to the drive, to add one uPVC matching ground floor window on the front elevation and to create a first floor bathroom where there is currently a large landing.

Old Bartow's is thought to date from the early 19th century but may have earlier origins. It is an elegant property set back from the road in reasonable sized gardens. The rear wall of the house forms its rear boundary. To the front are gardens and a parking area. The property has high boundary walls on three sides. Until recently it was used as a day centre for those with learning difficulties but has now received

permission for use as a single dwelling. The building was listed formally in 2000 some time after the initial survey was carried out by English Heritage inspectors. Between the survey and the formal listing, extensive works were carried out to the building including the near entire stripping out of the interior and its historic features (fire places, joinery, staircases etc.) as well as the replacement of all timber sash windows with uPVC windows. This was entirely within the law but has resulted in the unusual circumstances of the list description not matching the house and a substantially altered building being listed grade II. The conservation officer has advised the owner to pursue a delisting of the building but in the mean time the requirement for listed building consent for various works remains. Pre-application advice was provided for this application by the conservation officer.

The entrance gates proposed will provide a degree of security and privacy for the house. They are set slightly into the site to provide a pull-in space off the highway. The gates are timber and of a simple design that is considered appropriate and which will not cause any harm to the listed building.

The existing ground floor WC and shower room is located in a small extension at the front of the house (added in c.1995). It has no windows. It is proposed to be converted into an office with a new window added to the front in matching uPVC. The proposal will improve the appearance of the house as the existing blank wall is out of keeping with the rest of the front elevation. It is not considered appropriate to require a timber window given the comprehensive replacement of all the other windows in the property with uPVC and the likelihood that the building will be delisted in due course. The proposed new window will be a subdivided sash in appearance with the top half opening outwards, to match the other windows.

The internal layout has been substantially altered during conversion to the day centre. There is currently a large first floor landing. The application proposes the insertion of partitions to create a first floor bathroom in this landing, retaining a corridor and linking into existing plumbing at ground floor. Currently there is no first floor bathroom and this provides an opportunity to make one in an underused part of the building which is central to the accommodation. There is no harm caused to the listed building and the works will in fact create a more viable unit of accommodation.

The works are considered to be reasonable and to fit in with the character and appearance of the listed building. The use of the building as a single dwelling is an improvement and the works will help support the continued viability of the building in this use. The works are clearly outlined in the application and it is not considered necessary to add any conditions other than those relating to time period and conformity.

CONDITIONS

1. The works hereby permitted shall be begun before the expiration of three years from the date of this consent.
2. The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice.

REASONS FOR CONDITIONS

1. In accordance with Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
2. For the avoidance of doubt and in the interests of proper planning.

REASON FOR APPROVAL OF PERMISSION/GRANT OF CONSENT

The proposed works are considered to cause no additional harm to the listed building which has been extensively altered in the past. The remaining character and appearance is preserved and enhanced and therefore the alterations are acceptable. The proposal is therefore in accordance with the Mid Devon Local Plan (Part 3) policy DM27 and the National Planning Policy Framework and should be granted consent.

Mrs Jenny Clifford
Head of Planning and Regeneration

DELEGATED APPLICATIONS AS AT - 20 June 2016

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

PURPOSE OF REPORT

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

RECOMMENDATION

That the report be noted.

DETAILS OF DECISIONS

DATE RECEIVED	DATE DETERMINED/ DECISION	REF NUMBER	APPLICANT PROPOSED DEVELOPMENT	PARISH/AREA
11.08.2015	10.06.2016 Permitted with Conditions to Discharge	15/01319/LBC	Mr Juan Amador Paschoe House Bow Various internal alterations associated with Change of Use from a residential dwelling (C3) to hotel (C1), restaurant (A3) and bar (A4),and erection of a marquee.	Colebrooke 17
30.11.2015	02.06.2016 Permitted with Conditions to	15/01895/FULL	Mr D & Mrs A Parker Orchard House Church Street Erection of 2 sheds	Morchard Bishop 35

	Discharge			
02.12.2015	08.06.2016 Withdrawn	15/01925/FULL	Mr R Parr Land at NGR 292670 101097 (Formerly Part of Yellowford Farm) Erection of an agricultural building for the housing of livestock	Thorverton 51
19.01.2016	01.06.2016 Permitted with Conditions to Discharge	16/00119/FULL	Mr J Hardy Land and Buildings at NGR 290839 110642 (Coombeland Mill) Conversion of existing Mill to holiday accommodation	Cruwys Morchard 20
19.01.2016	01.06.2016 Permitted with Conditions to Discharge	16/00120/LBC	Mr J Hardy Land and Buildings at NGR 290839 110642 (Coombeland Mill) Listed Building Consent for the conversion of existing Mill to holiday accommodation	Cruwys Morchard 20
25.01.2016	06.06.2016 Refuse permission	16/00155/FULL	Mr Alan Hughes Land at NGR 304301 110193 (The Paddocks) Variation of conditions 3 and 4 of appeal decision APP/Y1138/A/14/2216218 relating to planning application 13/00777/FULL to allow the existing caravan to be occupied by additional family members	Uffculme 53
05.02.2016	06.06.2016 Grant permission	16/00202/HOUSE	Mr & Mrs S Dunster 1 Newland Cottages Cullompton Conversion of double garage to ancillary annexe	Cullompton 21

18.02.2016	10.06.2016 Grant permission	16/00261/HOUSE	Mr C Salter Shrubbery Cottage Burlescombe Formation of courtyard with open units for residential use	Burlescombe 06
07.03.2016	17.06.2016 Grant permission	16/00347/LBC	Cullompton Conservative Club Cullompton Conservative Club 40 High Street Listed Building Consent for internal alterations	Cullompton 21
08.03.2016	16.06.2016 Grant permission	16/00358/FULL	Mr & Mrs R Barrington Land at NGR 310615 109727 Bodmiscombe Erection of 2 replacement pigeon lofts	Uffculme 53
08.03.2016	13.06.2016 Grant permission	16/00365/HOUSE	Mrs W Grinney Bramblings Searle Street Erection of a raised timber deck with timber railings	Crediton Town 18
08.03.2016	16.06.2016 Grant permission	16/00370/FULL	Mr & Mrs R Barrington Land at NGR 310615 109727 Bodmiscombe Change of use of land for temporary siting of occupational dwelling for racing pigeon stud enterprise and construction of access track	Uffculme 53
09.03.2016	13.06.2016 No Objection	16/00375/CAT	Ms B Saywood The Old Rectory Church Street Notification of intention to remove 2m branch of 1 Mulberry tree within the Conservation Area	Sandford 43

11.03.2016	09.06.2016 Grant permission	16/00391/LBC	Mrs A Johnstone Applegarth King Street Listed Building Consent for internal alterations to create additional bedroom and bathroom	Silverton 45
15.03.2016	16.06.2016 Permitted with Conditions to Discharge	16/00403/FULL	Mr & Mrs M Chapple Land at NGR 301716 118961 (Redwoods Farm) Uplozman Erection of replacement farmhouse	Hockworthy 28
15.03.2016	06.06.2016 Grant permission	16/00404/CLU	Mr C Brake Heazle Farm Clayhidon Certificate of lawfulness for the existing use of a dwelling in non-compliance with an agricultural occupancy condition	Clayhidon 15
17.03.2016	08.06.2016 Permitted with Conditions to Discharge	16/00413/FULL	Mr C Voaden Lapford Youth Club Popes Lane Conversion of former youth club to dwelling and erection of new dwelling	Lapford 33
17.03.2016	06.06.2016 Grant permission	16/00423/HOUSE	Mr Tim Powell 14 Silverdale Silverton Erection of single storey side extension & porch in place of existing garage and erection of conservatory to rear (Revised Scheme)	Silverton 45
18.03.2016	06.06.2016 Grant permission	16/00429/HOUSE	Mrs J Ould 53 Coldharbour Uffculme Installation of replacement windows to rear	Uffculme 53

21.03.2016	03.06.2016 Grant permission	16/00434/HOUSE	Rev Paul Fillery Green Pastures Sandford Replacement of asbestos roof with Cupa H12 Spanish slates	Sandford 43
21.03.2016	01.06.2016 Grant permission	16/00443/FULL	Mr S & Mrs S Bor Brindiwell Farm Cheriton Fitzpaine Change of use of animation studio and artist workshop (B1) to dwelling (C3)	Cheriton Fitzpaine 12
23.03.2016	14.06.2016 Refuse permission	16/00451/HOUSE	Mr David Lane Upper Barton Canonsleigh Erection of a first floor sun lounge on existing storage area	Burlescombe 06
23.03.2016	02.06.2016 Grant permission	16/00459/HOUSE	Mr Peter Webb Apple Cottage Ash Thomas Raising of roof height of outbuilding for use as domestic storage building	Halberton 25
23.03.2016	07.06.2016 Grant permission	16/00463/FULL	Mr & Mrs J Buckley Land and Buildings at NGR 312758 112591 (Conigar Farm) Hemyock Formation of manege for private equestrian use	Hemyock 26
24.03.2016	27.05.2016 Grant permission	16/00471/LBC	Mr Alan Murray 2 Mews Cottages North Street Listed Building Consent for the replacement of 2 windows	Crediton Town 18
29.03.2016	13.06.2016 Grant permission	16/00478/LBC	Mr G Powell 19 The Village Shobrooke Listed Building Consent for the proposed installation of a velux window and a replacement window to	Shobrooke 44

			rear extension	
29.03.2016	10.06.2016 Withdrawn	16/00479/FULL	Mr G Bulley Land and Buildings at NGR 273731 95379 (East Church Farm Cottage) Hittisleigh Conversion of redundant agricultural barn to holiday let	Crediton Hamlets 19
29.03.2016	10.06.2016 Withdrawn	16/00480/LBC	Mr G Bulley Land and Buildings at NGR 273731 95379 (East Church Farm Cottage) Hittisleigh Listed Building Consent for conversion of redundant agricultural barn holiday let	Crediton Hamlets 19
29.03.2016	08.06.2016 Grant permission	16/00484/HOUSE	Dr J Coid Helewood Farm Clayhanger Erection of extension (Revised scheme)	Clayhanger 14
29.03.2016	08.06.2016 Permitted with Conditions to Discharge	16/00485/LBC	Dr J Coid Helewood Farm Clayhanger Listed Building Consent for erection of extension (Revised scheme)	Clayhanger 14
30.03.2016	02.06.2016 Grant permission	16/00482/HOUSE	Mr A Stones 31 Castle Park Hemyock Erection of single storey rear and side extensions	Hemyock 26
30.03.2016	09.06.2016 Grant permission	16/00496/LBC	Mr & Mrs P Moran Withy Cottage Canal Hill Listed Building Consent for internal and external alterations	Tiverton 52

30.03.2016	02.06.2016 Grant permission	16/00497/HOUSE	Mr & Mrs P Moran Withy Cottage Canal Hill Installation of solar panels	Tiverton 52
31.03.2016	02.06.2016 Permitted with Conditions to Discharge	16/00501/FULL	Mr & Mrs John Milverton Barton Farm Hittisleigh Change of Use of agricultural building to accommodation for use with wedding venue (class D1, and D2) and associated works	Hittisleigh 27
01.04.2016	02.06.2016 Grant permission	16/00509/HOUSE	Mr A Seldon Ranscombe Farm Skilgate Retention of two storey extension	Bampton 01
01.04.2016	10.06.2016 Grant permission	16/00511/LBC	Mr & Mrs NW & SM Gosling Slade Farm Morchard Bishop Listed Building Consent for 2 replacement windows	Morchard Bishop 35
04.04.2016	01.06.2016 Grant permission	16/00492/HOUSE	Prof. M Heggie Brinvilla Farm Puddington Erection of extensions following removal of existing structures	Washford Pyne 57
04.04.2016	02.06.2016 Grant permission	16/00502/LBC	Mr & Mrs John Milverton Barton Farm Hittisleigh Listed Building Consent for internal and external alterations	Hittisleigh 27
04.04.2016	16.06.2016 Grant permission	16/00515/TPO	Mr D Marrow 3 Portway Gardens Willand Old Village Application to reduce northern leader by 1m, crown raise lower branches to give 2m clearance at ground and	Willand 59

			selective pruning to give 2-2.5m clearance to the house of 1 Cedar tree protected by Tree Preservation Order 08/00003/TPO	
04.04.2016	26.05.2016 Grant permission	16/00518/HOUSE	Mr & Mrs Scott Hanks 4 Norwood Road Tiverton Erection of a two storey extension	Tiverton 52
04.04.2016	06.06.2016 Grant permission	16/00520/HOUSE	Mr & Mrs P Cole Spring Cottage Uffculme Erection of two storey extension and first floor extension over garage and conversion of garage to living accommodation	Uffculme 53
04.04.2016	08.06.2016 Grant permission	16/00521/FULL	Mr M Balment 1 - 2 The Weeches Washfield Installation of replacement windows to first floor flat	Washfield 56
04.04.2016	01.06.2016 Grant permission	16/00523/FULL	Mr S Brimilcombe Crediton Milling Co Ltd Fordton Mill Erection of extension to intake pit over existing workshop and extension to new mesh/meal bins	Crediton Town 18
05.04.2016	31.05.2016 Permitted with Conditions to Discharge	16/00508/LBC	Mr Steve Shanks Church Cottage Upton Hellions Listed Building Consent for the installation of new window and internal alterations	Upton Hellions 55
05.04.2016	08.06.2016 Grant permission	16/00522/LBC	Mr M Balment 1 - 2 The Weeches Washfield Listed Building Consent for the installation of replacement windows to	Washfield 56

			first floor flat	
05.04.2016	01.06.2016 Grant permission	16/00528/HOUSE	Mr Phillips Moor Farm Westleigh Erection of a two-storey extension and triple garage	Burlescombe 06
05.04.2016	02.06.2016 Grant permission	16/00530/HOUSE	Mr & Mrs G Parker 32 Crowden Crescent Tiverton Erection of extension	Tiverton 52
06.04.2016	01.06.2016 Permitted with Conditions to Discharge	16/00526/FULL	Ms A Mascrene Land Adjacent to 1 Maple Close Willand Variation of Conditions 2 and 5 of Planning Permission 14/01547/FULL to allow the provision of an additional window on ground floor North East elevation of Plot 2	Willand 59
06.04.2016	01.06.2016 Permitted with Conditions to Discharge	16/00531/FULL	Mr R Peel, Airband Community Internet Ltd Land at NGR 275157 94965 (Old Tellams Yard) Cheriton Bishop Erection of a 24m high lattice mast supporting radio equipment and a cabinet housing power supply	Cheriton Bishop 11
06.04.2016	02.06.2016 Permitted with Conditions to Discharge	16/00532/FULL	Mr T Browne Elms House Newton St Cyres Erection of replacement dwelling to include erection of a new store/carport	Newton St Cyres 37
06.04.2016	01.06.2016 Grant permission	16/00534/LBC	Mr & Mrs S Bor Brindiwel Farm Cheriton Fitzpaine Listed Building Consent for the	Cheriton Fitzpaine 12

			change of use of animation studio and artist workshop (B1) to dwelling (C3)	
07.04.2016	02.06.2016 Grant permission	16/00527/FULL	Mr R Chard Riklands Colebrooke Lane Change of use of land from agricultural to domestic garden and erection of an attached double garage	Cullompton 21
07.04.2016	13.06.2016 Grant permission	16/00538/HOUSE	Mr Daniel Palmer 18 Queen Street Tiverton Erection of an extension following demolition of existing extension	Tiverton 52
08.04.2016	14.06.2016 Permitted with Conditions to Discharge	16/00537/FULL	Mr & Mrs A Page Chapel Cottage Holcombe Rogus Change of use of land from agricultural to domestic garden and erection of ancillary building	Holcombe Rogus 29
08.04.2016	03.06.2016 Grant permission	16/00539/FULL	Mr W Simmons Land at NGR 294679 104191 (Chitterley Business Centre) Silverton Change of use of land to form car park	Bickleigh 02
08.04.2016	06.06.2016 Grant permission	16/00540/FULL	Mrs Liz Richardson Land at NGR 310145 114498 (Fairlawn) Culmstock Retention of an agricultural livestock and storage building and new access	Culmstock 22
08.04.2016	13.06.2016 Grant permission	16/00550/FULL	Mr P Nott Land and Buildings at NGR 310469 113042 (Osmonds Farm) Culmstock Erection of 3 bay garage after demolition of existing	Culmstock 22

11.04.2016	07.06.2016 Permitted with Conditions to Discharge	16/00542/HOUSE	Mr & Mrs A Bridgeman Mill Cottage Hittisleigh Erection of two storey side extension to replace existing single storey extension	Hittisleigh 27
11.04.2016	07.06.2016 Grant permission	16/00543/LBC	Mr & Mrs A Bridgeman Mill Cottage Hittisleigh Listed Building Consent for erection of two storey side extension to replace existing single storey extension and internal alterations	Hittisleigh 27
11.04.2016	13.06.2016 Permitted with Conditions to Discharge	16/00545/FULL	G Freeman Swallow Barn Chawleigh Erection of lean-to sunroom and carport/barn with storage following demolition of existing shed, erection of a fence to rear and retention of post and rail fence to front of property	Chawleigh 10
11.04.2016	13.06.2016 Grant permission	16/00546/LBC	G Freeman Swallow Barn Chawleigh Listed Building Consent for the erection of lean-to sunroom and carport/barn with storage following demolition of existing shed	Chawleigh 10
11.04.2016	08.06.2016 Grant permission	16/00552/FULL	Mr S Britton Land at NGR 295045 106592 (Lower Dorweeke) Silverton Retention of an agricultural access gateway to include removal of section of hedgebank and 1 tree	Silverton 45

11.04.2016	09.06.2016 Grant permission	16/00557/FULL	Mr T Burrage Blackmore House 17 St Peter Street Installation of 12 replacement windows to East elevation	Tiverton 52
11.04.2016	09.06.2016 Grant permission	16/00558/LBC	Mr T Burrage Blackmore House 17 St Peter Street Listed Building Consent for installation of 12 replacement windows to East elevation	Tiverton 52
12.04.2016	10.06.2016 Permitted with Conditions to Discharge	16/00553/FULL	Mr R White B and M Retail Limited (Garden Centre Structure) Units 5 to 7 Erection of flexible mixed use commercial units for use classes A1, B1, B8, D1 and Sui Generis with associated parking and landscaping following demolition of existing building	Tiverton 52
13.04.2016	07.06.2016 Permitted with Conditions to Discharge	16/00559/FULL	Mr S Nelson Land and Buildings at NGR 315733 116618 (Opposite Heazle Farm) Clayhidon Change of use of part of agricultural land to manege, replacement of buildings with barn and erection of an additional barn	Clayhidon 15
13.04.2016	10.06.2016 Grant permission	16/00562/HOUSE	Mr & Mrs Comer 25 Ashley Rise Ashley Erection of single storey rear extension, detached garage and landscaping works	Tiverton 52

14.04.2016	09.06.2016 Grant permission	16/00569/HOUSE	Mr & Mrs Manley 2 Mimosa Close Tiverton Erection of single storey extension	Tiverton 52
14.04.2016	10.06.2016 Grant permission	16/00570/FULL	Mr & Mrs Hodgson Land and Buildings at NGR 294031 106737 (Adjacent to Copenhagen Farm) Bickleigh Erection of an agricultural livestock and storage building	Bickleigh 02
14.04.2016	06.06.2016 Permitted with Conditions to Discharge	16/00571/LBC	Mrs A Church 2 Newcourt Cottages Langford Listed Building Consent for the erection of a conservatory	Cullompton 21
15.04.2016	02.06.2016 No Objection	16/00574/CAT	Mr Chris Ladd Jockey Cottages Jockey Hill Notification of intention to carry out works to 1 Willow, 1 Norway Maple and 1 Common Ash tree within a conservation area	Crediton Town 18
15.04.2016	09.06.2016 Grant permission	16/00578/FULL	Mr Mark Arthurs Land at NGR 291301 112586 Witleigh Lane Erection of an agricultural building	Tiverton 52
15.04.2016	02.06.2016 No Objection	16/00579/CAT	Mr R Brain The Garden House Holme Place Notification of intention to fell 1 Willow tree within the Conservation Area	Oakford 39
18.04.2016	01.06.2016 No Objection	16/00585/CAT	Mrs Clancy Land at NGR 306537 112492 (South of Grantlands Surgery) Commercial Road	Uffculme 53

			Notification of intention to crown raise over the garden by removing secondary branches, reduce branches by 2.5-3m and remove deadwood through the crown of 1 Oak tree within the Conservation Area	
18.04.2016	07.06.2016 Refuse permission	16/00586/HOUSE	Mrs A Mason 16 Duke Street Cullompton Erection of first floor extension	Cullompton 21
18.04.2016	07.06.2016 Grant permission	16/00587/HOUSE	Mr & Mrs Devine Lower Garlandhayes Clayhidon Erection of two storey extension to west elevation, first floor extension to rear over existing single storey extension and removal of chimney	Clayhidon 15
18.04.2016	13.06.2016 Grant permission	16/00595/HOUSE	Mr M Gard 3 Seymour Terrace John Street Erection of two storey extension following removal of existing single storey extension	Tiverton 52
19.04.2016	06.06.2016 No Objection	16/00590/CAT	Mr S Findlay Howden Lodge Willand Old Village Notification of intention to fell 1 Ash tree within the Conservation Area	Willand 59
19.04.2016	13.06.2016 Grant permission	16/00591/FULL	Mr T H G & Mrs J W Russell Land and Building at NGR 290110 97775 (Quarryfield) Langford Road Erection of extensions to existing agricultural storage building	Newton St Cyres 37
19.04.2016	17.06.2016 Grant permission	16/00594/HOUSE	Mr Christopher Gundry 4 Coleman Close Tiverton	Tiverton 52

			Retention of a fence	
19.04.2016	17.06.2016 Grant permission	16/00598/TPO	Mr Mark Turner Milkmoor Tiverton Road Application to carry out works to 1 Monterey Cypress, 1 Oak and 4 Willow trees protected by Tree Preservation Order Nos. 15/00008/TPO and 00/00006/TPO	Cullompton 21
19.04.2016	13.06.2016 Grant permission	16/00600/HOUSE	Mr K Mills 23 Westernlea Crediton Erection of two storey extension and loft room with dormer	Crediton Hamlets 19
20.04.2016	13.06.2016 Grant permission	16/00601/HOUSE	Ms H Needham 26 Pear Drive Willand Erection of two-storey extension following removal of existing attached garage	Willand 59
20.04.2016	07.06.2016 Grant permission	16/00602/HOUSE	Mr B Berry 4 Campion Court Willand Erection of single storey rear extension	Willand 59
21.04.2016	09.06.2016 Grant permission	16/00612/CLP	Mr Frost 27 Besley Close Tiverton Certificate of lawfulness for the proposed creation of a hardstanding and vehicular access	Tiverton 52
21.04.2016	17.06.2016 Permitted with Conditions to Discharge	16/00629/FULL	Mr M Chamberlain Land at NGR 303843 111382 (Plots A and B, Mid Devon Business Park) South View Road	Willand 59

			Erection of Accommodation Unit Depot and storage yard	
22.04.2016	16.06.2016 Development Acceptance	16/00614/PNCOU	Mr R Tidball Building at NGR 290416 115854 (Lower Ingrams Farm) Prior notification for the change of use of agricultural building to dwelling under Class Q	Loxbeare 34
22.04.2016	01.06.2016 No Objection	16/00615/CAT	Mr Alasdair McIlhagga Vennwoods Millmoor Notification of intention to fell 1 Flowering Cherry tree within a conservation area	Culmstock 22
22.04.2016	14.06.2016 Grant permission	16/00617/HOUSE	Mr & Mrs Charlwood Ashill Court Ashill Erection of double garage, installation of an access gate and associated ground works	Uffculme 53
22.04.2016	14.06.2016 Grant permission	16/00618/LBC	Mr & Mrs Charlwood Ashill Court Ashill Listed Building Consent for erection of double garage and installation of an access gate	Uffculme 53
22.04.2016	07.06.2016 Refuse permission	16/00621/CLP	Mrs C Hague Old Croyle House Kentisbeare Certificate of lawfulness for the erection of an orangery following removal of conservatory	Kentisbeare 32
22.04.2016	15.06.2016 Grant permission	16/00623/HOUSE	Mr Peter Clayton 21 Castle Street Tiverton Replacement of existing glass	Tiverton 52

			conservatory roof with slate roof containing 2 Velux windows	
22.04.2016	20.06.2016 Grant permission	16/00627/HOUSE	Mr Parsley The Lindens Lapford Erection of extension	Lapford 33
22.04.2016	13.06.2016 Grant permission	16/00637/HOUSE	Mr Andrew Warren 15 Walnut Drive Crediton Erection of a 2 storey extension following demolition of existing conservatory	Crediton Town 18
25.04.2016	20.06.2016 Grant permission	16/00624/HOUSE	Mr & Mrs A Palmer 12 Creedy Road Crediton Erection of extension	Crediton Town 18
25.04.2016	20.06.2016 Grant permission	16/00628/HOUSE	Ms R Daniells 14 Creedy Road Crediton Erection of extension and alterations to dwelling to improve accessibility	Crediton Town 18
25.04.2016	17.06.2016 Grant permission	16/00630/ADVERT	Mr M Chamberlain Land at NGR 303843 111382 (Plots A and B, Mid Devon Business Park) South View Road Advertisement Consent for 2 non- illuminated fascia sign	Willand 59
26.04.2016	17.06.2016 Grant permission	16/00640/HOUSE	Susan Bond & Graham Sherburn 2 Parsonage Lane Silverton Erection of a porch, rear extension and new conservatory following demolition of existing	Silverton 45
27.04.2016	02.06.2016 No Objection	16/00645/CAT	Mrs Tessa Powell School House Cadeleigh	Cadeleigh 09

			Notification of intention to remove 1 Fir tree within a conservation area	
28.04.2016	20.06.2016 Grant permission	16/00649/FULL	Mr K Miller Ringstone Oakford Variation of condition 3 of Planning Permission 4/39/99/2498 to read 'The gallops hereby approved shall be used solely by the owner(s) of Ringstone and for no other use including any equine business'	Oakford 39
28.04.2016	09.06.2016 Grant permission	16/00658/HOUSE	Mr & Mrs M Shotts Burgage Lodge Hornbeam Gardens Erection of single storey extension	Bradninch 04
29.04.2016	20.06.2016 Permitted with Conditions to Discharge	16/00669/FULL	Mr N Hill Workshop Lower North Coombe Erection of replacement garage workshop building (B2 use), and extension to parking area (Revised scheme)	Stockleigh Pomeroy 47
03.05.2016	09.06.2016 No Objection	16/00664/CAT	Mr A Miles Vennleigh 25 West End Road Notification of intention to reduce the height of 1 Hazel tree to 2.5m, reduce the height of 1 Ash tree to 1.25m and reduce the height of Hawthorn tree to 1.25m within the Conservation Area	Bradninch 04
04.05.2016	01.06.2016 Development Acceptance	16/00672/PNFG	Mr Robert James Great Wood (Land At NGR 288339 119965 Coombe Water Wood) Prior notification for the erection of a forestry wood storage/work shed	Stoodleigh 48

05.05.2016	07.06.2016 Development Acceptance	16/00686/PNHH	Mr & Mrs Bushell Wood View Eggesford Prior Notification for the erection of an extension, extending 8m to the rear, maximum height of 4m, eaves height of 3m	Chawleigh 10
05.05.2016	09.06.2016 No Objection	16/00687/CAT	Mr Davies Salama 15 Blundells Avenue Notification of intention to fell 1 Walnut tree within the Conservation Area	Tiverton 52
09.05.2016	13.06.2016 Grant permission	16/00720/FULL	Ms J Clark 3 Fore Street Cullompton Rentention of ATM on front elevation	Cullompton 21
09.05.2016	13.06.2016 Grant permission	16/00721/ADVERT	Ms J Clark 3 Fore Street Cullompton Advertisement Consent for the installation of ATM fascia with non- illuminated lettering	Cullompton 21
10.05.2016	06.06.2016 Development Acceptance	16/00727/PNAG	Mr Nigel Diggle Land at NGR 299843 112266 Crown Hill Prior notification for the erection of an agricultural building	Halberton 25
10.05.2016	06.06.2016 Development Acceptance	16/00729/PNAG	Mr Nigel Diggle Land at NGR 299847 112240 Crown Hill Prior notification for the erection of an agricultural building	Halberton 25
12.05.2016	07.06.2016 Development Acceptance	16/00747/PNAG	Mr D Mogford Oak Farm Appledore Prior notification for the erection of an	Burlescombe 06

			extension to an existing livestock and storage building	
16.05.2016	13.06.2016 Grant permission	16/00749/CLP	Mr A Bell Land at NGR 301992 110039 (North East of Moorstone Barton Farm) Brithem Bottom Certificate of lawfulness for the proposed installation of an underground cable and associated works between the boundary of Stoneshill Farm Solar Park and overhead line	Halberton 25
17.05.2016	07.06.2016 Development Acceptance	16/00776/PNAG	Miss L Thirtle Land at NGR 273442 104732 (Middle Yeo Farm) Down St Mary Prior Notification for the formation of cattle tracks	Down St Mary 23
20.05.2016	13.06.2016 Approval of Prior Approval	16/00787/PNAG	Mr D Vennelle Oak Tree Farm Down St Mary Prior notification for the erection of an agricultural livestock building	Down St Mary 23
24.05.2016	20.06.2016 No Objection	16/00814/CAT	Mr Chris Arnold The Mount Chapel Hill Notification of intention to fell 1 Ash tree, reduce height of 12 Lawson Cypress and 1 Laurel in a Conservation Area	Uffculme 53
25.05.2016	20.06.2016 No Objection	16/00824/CAT	Claire Pile Holly Croft South Street Notification of intention to dismantle to ground level a screen of Leyland Cypress trees within the Conservation	Holcombe Rogus 29

			Area	
26.05.2016	20.06.2016 No Objection	16/00832/CAT	Mr Tim Ware 34 Gold Street Tiverton Notification of intention to reduce top by 2m, sides by 1m and remove lower branches of one Silver Fir tree within a Conservation Area	Tiverton 52

Background Papers: Contained in application files referred to.

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Major Applications with no Decision

Members are asked to note that some major applications will be dealt with under the delegation scheme. Members are also requested to direct any questions about these applications to the relevant case officer. It was resolved at the meeting of Planning Committee on 20th February 2013 that any ground mounted solar PV schemes recommended for approval will be brought to Planning Committee for determination.

Item No.	Weeks	TARGET DATE	REFVAL	PROPOSAL	LOCATION	NAME	Expected Decision Level	
							Delegated	Committee
1	0	19/09/2016	16/00918/MOUT	Outline for the erection of 22 dwellings	Land at NGR 313224 113301 (West of Conigar Close) Culmstock Road Hemyock Devon	Ms Tina Maryan	DEL	
2	0	19/09/2016	16/00924/MOUT	Outline for the erection of approximately 60 dwellings, a Doctors' Surgery, and means of access	Land and Buildings at NGR 277744 102582 (East of Dulings Farm) Copplestone Devon	Mr Simon Trafford	DEL	
	2	01/09/2016	16/00825/MFUL	Construction of an anaerobic digestion plant including vehicular access from Down End, provision of infrastructure works to support the plant including creating compensatory flood storage and regrading of land and landscaping and all associated works and development	Land at NGR 284938 100390 (Goosealler Marshes) Commonmarsh Lane Lords Meadow Industrial Estate Crediton Devon	Mr Simon Trafford	COMM	COMM
	5	09/08/2016	16/00693/MOUT	Outline for the erection of 13 dwellings	Land at NGR 310280 114261 Hunters Hill Culmstock Devon	Ms Tina Maryan	COMM	COMM
5	11	30/06/2016	16/00473/MARM	Reserved Matters for the erection of 26 dwellings with associated vehicular and pedestrian accesses	Land at NGR 295240 122009 (adj. to Former School) Bampton Devon	Miss Lucy Hodgson	DEL	
6	19	05/05/2016	16/00015/MFUL	Erection of an 83 bedroom 'Premier Inn' hotel and integral restaurant with associated access and landscaping, including partial demolition of multi-storey car park	Multi Storey Car Park Phoenix Lane Tiverton Devon	Miss Lucy Hodgson	COMM	COMM
7	48	16/10/2015	15/01034/MFUL	Erection of a 500kW anaerobic digester and associated works with 2 silage clamps. Revised Scheme to include the change of orientation of the layout and installation of 2 driers	Land at NGR 299621 112764 (Red Linhay) Crown Hill Halberton Devon	Mr Daniel Rance	COMM	COMM

<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>
8	106	24/09/2014	14/00881/MOUT	Outline for a mixed use development comprising up to 700 dwellings, 22,000 square metres of B1/B8 employment land, care home, primary school and neighbourhood centre with associated access including a left in left out junction on the westbound A361 and access and egress onto Blundells Road	Land East of Tiverton, South of A361, and Both North and South of Blundells Road Upplowman Road Tiverton Devon	Mr Simon Trafford		COMM	COMM
9	112	28/07/2014	14/00604/MFUL	Erection of care home and 12 apartments with associated access, parking and landscaping, following demolition of existing hospital buildings (Revised Scheme)	Post Hill Nursing Home 36 Post Hill Tiverton Devon EX16 4ND	Miss Lucy Hodgson		COMM	COMM
10	165	16/07/2013	13/00525/MFUL	Application to replace extant planning permission 09/01870/MFUL (to extend time limit). A mixed development of 13 open market eco-houses and 6 affordable eco-houses; new access and estate road; additional car parking facilities for the Village Hall; closure of the existing Parish Hall Car Park entrance; provision of a children's play area for the Parish Hall; highway improvements to Fanny's Lane; footpath link to Snows and Meadows Road (Revised Scheme)	Land at NGR 282973 102485 (East of Oxford Terrace) Fanny's Lane Sandford Devon	Mr Simon Trafford		COMM	COMM

LIST OF APPEAL DECISIONS FROM 23 May 2016 to 27 June 2016

Application No	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
15/01108/MFUL	Installation of a ground-mounted photovoltaic solar farm to generate up to 6MW of power (site area 11ha) with associated infrastructure including inverter cabins, sub station buildings, access tracks, fencing and CCTV (Revised scheme)	Land at NGR 307922 118303 (Wiseburrow Farm) Burlescombe Devon	Grant permission subject to conditions.	Committee Decision	Refuse permission	Written Representations	Appeal Dismissed

Summary of Inspectors Comments

The main issue was whether the benefits of the scheme, including the production of electricity from a renewable source, outweighed any harmful effects, having particular regard to the impacts upon the character and appearance of the area, the settings of designated heritage assets, and the outlook of neighbouring residents. The Inspector concluded that the development would have moderate adverse landscape and visual impacts, particularly when viewed from public rights of way in the area from which the development would be seen by high sensitivity receptors (walkers) enjoying the Mid Devon countryside. The Inspector concluded there would be no harmful cumulative impact with other solar schemes in the area and the development would not detract from the special landscape qualities of the AONB. In terms of impact on residential amenity, the Inspector concluded that the adverse effects on the outlook of neighbouring residents, particularly those at Whipcott Heights, should be given moderate weight in the overall planning balance. The Inspector also considered the impact of the development on heritage assets, in particular on the setting of the Grade I listed Holcombe Court. Whilst he commented that the proposed development would not intrude into or disrupt any important views of Holcombe Court, the development would be visible from part of the grounds and the roof the tower and would be glimpsed from the long gallery. He concluded that the development would result in less than substantial harm to the significance of this listed building. In weighing the planning balance, the Inspector found that the benefits of the scheme would not outweigh the totality of the harm identified and would fail to satisfy the environmental dimension to sustainable development.

15/00703/PNCOU	Prior notification for change of use of an agricultural building to a dwelling under Class Q	Eastmere Farm Lapford Crediton Devon EX17 6QU	Refusal of Prior Approval	Delegated Decision	Refusal of Prior Approval	Written Representations	Appeal Dismissed
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Application No	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
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Summary of Inspectors Comments

The appeal relates to the change of use of an agricultural building to a dwelling under Class Q of the Town and Country Planning (General Permitted Development)(England) Order 2016. The main issue was whether the proposal meets the criteria of the GPDO, particularly in terms of the building operations set out at Q.1(j). The building has a timber frame made from a mixture of rough sawn and planed components, covered externally with profiled metal sheeting. The floor is concreted in some areas with some areas of earth flooring. The structural surveys submitted found that additional structural strengthening was required to facilitate the residential conversion and was therefore contrary to the advice set out in paragraph 105 of the PPG which confirms that no new structural elements are required. Due to the slope of the floor restricting the available headroom, a degree of alteration and levelling to the internal floor level would be required. The inspector found that the excavation would be to an extent that was not within the building operations permitted by the legislation. The inspector concluded that the works to facilitate the change of use go beyond those permitted by the GPDO and therefore the appeal was dismissed. An application for costs was also dismissed by the inspector.

15/01688/FULL	Erection of dwelling	Land Rear of 65 Tidcombe Lane Tiverton Devon EX16 4EQ	Refuse permission	Delegated Decision	Refuse permission	Written Representations	Appeal Dismissed
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Summary of Inspectors Comments

The main issues were the effect of the proposed development on:

- (i) the character and appearance of the area;
- (ii) the living conditions of adjoining occupiers with regard, in particular, to loss of outlook and privacy; and
- (iii) highway safety.

On each of the main issues the appeal was dismissed. The Inspector considered the proposal would appear as a conspicuous and discordant feature which would not relate to its surroundings and would be harmful to the character and appearance of the area. It would have an adverse effect on the living conditions of the neighbouring occupiers with regard to loss of outlook and upon highway safety. The proposed development would displace parking. Any increase in demand for on street parking on Tidcombe Lane would exacerbate the impaired visibility for vehicles exiting Tidcombe Close and would introduce additional risk to all road users.

Application No	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
15/01632/FULL	Erection of a dwelling	Jersey Cottage Sampford Peverell Tiverton Devon EX16 7EH	Refuse permission	Committee Decision	Refuse permission	Written Representations	Appeal Dismissed

Summary of Inspectors Comments

The main issue is whether the proposal would be an acceptable and sustainable form of development, having regard to its location in relation to local and national policies that seek to limit new development in the countryside.

The site is located to the east of the village of Sampford Peverell close to Tiverton Parkway railway station and adjacent to the A361 main road.

The area is predominantly rural in character with open fields and hedgerows in-between the development, and scattered trees along field boundaries.

Paragraph 55 of the National Planning Policy Framework (the Framework) seeks to promote sustainable development in rural areas through locating housing where it will enhance or maintain the vitality of rural communities.

However, there is little evidence to demonstrate that the addition of a single new home would boost materially the vitality of the community, particularly as the future occupants may equally be likely to travel to nearby towns.

The proposed development would be clearly outside and some distance from the edge of the village. Services in Sampford Peverell are limited.

The site is not within a village location and there is very limited residential development in the vicinity. Consequently, I find that the proposed dwelling would be isolated in terms of the Framework. There is no evidence to demonstrate why the proposed dwelling needs to be located in the countryside and how it would contribute to an identified local housing need.

In conclusion, the proposed dwelling would be outside the settlement and would be in the countryside for development plan purposes. No special circumstances have been demonstrated to justify the countryside location. Consequently the proposal would not accord with Policy COR18 of the Mid Devon Local Development Framework: Core Strategy (adopted 2007) which seeks to restrict development outside of settlements unless it is for agriculture and other appropriate rural uses. The policy is consistent with the Framework in this respect.

Application No	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
15/01778/PNCOU	Prior notification for the change of use of an agricultural building to a dwelling under Class Q	Lower Burston Farm Burston Lane Bow Crediton Devon EX17 6LB	Refusal of Prior Approval	Delegated Decision	Refusal of Prior Approval	Written Representations	Appeal Dismissed

Summary of Inspectors Comments

This notification was the change of use of the building to residential under Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015. The main issue is whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change from agricultural use to use as a dwellinghouse. The appeal building and nearby barn are linked by a covered field shelter some 5m wide, which the notification proposed to remove with the exposed elevation of the barn to be enclosed in block work. Despite the applicants case that the small size of the farm and the viability issues currently suggest that it is unlikely that the neighbouring building would be used for accommodating livestock in the future, the inspector considered that whilst the building was still there it could be used for such purposes at any time in the future. The inspector supported the concerns that the occupiers would experience an unsatisfactory living environment through noise and disturbance from both livestock and the activities involved. The inspector did not consider that it would be appropriate, or supported by the legislation of Planning Practise Guidance, to impose an agricultural occupancy condition or occupancy by family members only. The inspector concluded that the location and siting of the building makes it undesirable to change use to a dwelling house by virtue of the risk of unsatisfactory living conditions arising from the closeness of the appeal building to the adjacent barn and therefore fails to comply with the conditions set out in Q.2(e).

15/01232/PNCOU	Prior notification for the change of use of an agricultural building to dwelling under Class Q	Building at NGR 307382 112173 (Oakford House) Uffculme Devon	Refusal of Prior Approval	Delegated Decision	Refusal of Prior Approval	Written Representations	Appeal Dismissed
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Summary of Inspectors Comments

Although the building was found to be structurally sound and the works proposed were reasonably necessary to convert the building, it was found that on the balance of probabilities, the site was not used solely for an agricultural use as part of an established agricultural unit on the relevant date. Photographic evidence of the physical condition of the building and the equestrian use of the site weighed against the sworn statements provided.

Agenda Item 12

PLANNING COMMITTEE
6th July 2016

REPORT OF JENNY CLIFFORD, THE HEAD OF PLANNING AND REGENERATION

Application No. 16/00180/FULL

Grid Ref: 295541 : 102696

Applicant: Mr D Wright

Location: 19 Exeter Road
Silverton Exeter EX5
4HX

Proposal: Erection of 2
dwellings following
demolition of existing
dwelling (Revised
Scheme)

Date Valid: 1st February 2016



PLANNING WORKING GROUP – 17 June 2016

There were 7 members of Planning Working Group present.

Also present – the applicant's architect, one objector, a Member of the Parish Council and the Ward Member

The Chairman indicated that the Planning Working Group had been requested to visit the site to consider the effect of the development on the street scene, possible overdevelopment of the site, the access and parking arrangements and the impact on existing properties.

The Area Planning Officer outlined the plans of the proposed development, highlighting the existing neighbouring property, the existing building line, the extension to No 21 Exeter Road, the position of the two proposed dwellings set back off the road and behind the front and rear elevations of the neighbouring property. Also the location of the adjacent Conservation Area. She explained the changes proposed to the access, the boundary wall and the position of the properties to the rear of the site.

The Architect addressed the Group highlighting the schemes he had designed in the area and the fact that street scenes evolved through time. The bungalows along Exeter Road had been modified and therefore the street scene had been modified.

The objector stated that two dwellings on the site had raised the objections amongst local residents as there were over development, access and parking issues. He indicated where the north house would sit on the site, its impact on the neighbouring property and its closeness to the road. He felt that the orientation of the proposed dwellings would affect the street scene. He provided the group with a visual aid of the height of the proposed south house; its impact on the adjacent conservation area and on the street scene as the development was felt to be unsympathetic. The existing hedgerow would be removed as would the historic wall and replaced with two tarmac drives. He added that the proposal was not in keeping with Policy DM2, Mid Devon Local Plan Part 3 Management Policies. A representative from the Parish Council stated that overdevelopment of the site and parking issues were the Parish Council's main objections to the application, she felt there was little need to squash two houses onto the site with very small gardens and no garages.

The Ward Member outlined her concerns regarding the proposed development; she felt that there was over development issues and that the proposal would spoil the road frontage, the hedge would be removed and replaced with tarmac drives and that the modern design was not in keeping with other dwellings along Exeter Road. She also felt that there would be highway issues with cars reversing out onto the highway.

Consideration was given to:

- The parking arrangements on the site
- The impact of the north house on the street scene
- The proximity of the south house to No 21 Exeter Road
- The new dwellings backing on to the rear of the site
- The height of the proposed dwellings and the fact that they would be dug into the site
- Possible boundary treatment conditions that could be put in place to the rear of the site
- The possible removal of PD rights on the site if approved
- The ridge height in comparison to Orchard Jeffries and the distance between the two properties.

The Group agreed that they would voice their views regarding the application at the next meeting of the Planning Committee.

Application No. 16/00180/FULL

RECOMMENDATION

Subject to the provision of a Section 106 Agreement to secure a financial contribution of £1,442 towards off site public open space provision grant permission.

COUNCILLOR MRS ROACH HAS REQUESTED THAT THIS APPLICATION BE DETERMINED BY THE PLANNING COMMITTEE FOR THE FOLLOWING REASONS:

To consider:

1. The adverse impact on neighbours and overdevelopment of the plot.
2. If the design is inappropriate given the existing street scene.
3. Highway issues given the narrow road, lack of parking in this area and the village as a whole.

PROPOSED DEVELOPMENT

Planning consent is sought for the erection of 2 dwellings following the demolition of an existing bungalow. This application represents a revised scheme following the withdrawal of an application in December 2015 following Officer concerns relating to over development of the site. Pre-application advice had been received prior to the submission of that application indicating that 'it (was) likely that the demolition of the existing bungalow including the construction of two new dwellings on the site (could) be supported'. That Officer advice made specific reference to the neighbouring conservation area and the need to reduce any negative impact on it and neighbouring properties.

The existing bungalow is constructed using panelled render/concrete, with brown roof tiles and UPVC fenestration. The site abuts the Silverton conservation area to the west, and includes off-street parking in the form of a driveway. The application is within the settlement boundary of Silverton. Whilst the surrounding land is not significantly undulating, the dwellings to the east are built on a significantly lower ground level. The site is within flood zone one, and the proposal is unlikely to affect a listed building.

APPLICANT'S SUPPORTING INFORMATION

Design and Access Statement: outlining the detailed design and layout of the proposed including background information and policy support.

PLANNING HISTORY

99/02798/FULL Erection of conservatory on front of property - PERMIT
15/01691/FULL Erection of 2 dwellings after demolition of existing dwelling and alteration to existing access - WDN
16/00180/FULL Erection of 2 dwellings following demolition of existing dwelling (Revised Scheme) - PCO

DEVELOPMENT PLAN POLICIES

Mid Devon Core Strategy (Local Plan 1)

COR1 - Sustainable Communities
COR2 - Local Distinctiveness
COR9 - Access
COR17 - Villages

Mid Devon Allocations and Infrastructure Development Plan (Local Plan 2)

AL/IN/3 - Public Open Space

Mid Devon Local Plan Part 3 (Development Management Policies)

DM1 - Presumption in favour of sustainable development

DM2 - High quality design

DM3 - Sustainable design

DM8 - Parking

DM14 - Design of housing

DM15 - Dwelling sizes

CONSULTATIONS

HIGHWAY AUTHORITY - 10th February 2016 - Standing advice applies please see Devon County Council document <http://www.devon.gov.uk/highways-standingadvice.pdf>

SILVERTON PARISH COUNCIL - 4th April 2016

The Parish Council has carried out a site visit relating to the above application and would recommend refusal of the above application on the grounds of overdevelopment of the site and it is felt the proposed development is not in keeping with the surrounding area.

The Parish Council would also ask that, prior to the District Council making a decision on the application, that the Applicant be asked to provide a Wildlife Survey in relation to the pond.

ENVIRONMENTAL HEALTH - 16th February 2016

Contaminated Land - The proposed development will involve the demolition of existing premises or structures, which may contain hazardous liquid or solid materials (including asbestos). Therefore, the following condition is recommended if permission is granted

Demolition should be carried out in such a manner as to minimise the potential for airborne nuisance, additional land contamination and/or the creation of additional contamination pathways either on the site or at adjacent properties/other sensitive receptors.

Prior to demolition commencing, a works plan and risk assessment shall be submitted for approval to the Local Planning Authority for consultation with Environmental Health Services. This plan and assessment should identify and risk-assess any potential hazardous material in above or below ground structures that will be removed or disturbed during demolition and measures to deal with these safely. All potential hazardous materials should be assessed.

Reason: In the interests of public health and protection of the environment.

Air Quality - no objections to this proposal

Environmental Permitting - N/A

Drainage - no objections to this proposal

Noise & other nuisances - recommend approval with conditions:

No work shall be carried out on the site on any Sunday, Christmas Day or Bank Holiday or other than between the hours of 0730 and 1900 hours on Monday to Fridays and 0730 and 1300 on Saturdays.

Reason: To ensure that the proposed development does not prejudice the amenities of neighbouring properties.

Housing Standards - no objections to this proposal

Licensing - No comments

Food Hygiene - N/A

Private Water Supplies - Not applicable

Health and Safety I have no objections to this proposal.

Informative: There is a lack of information e.g. structural survey. There is a foreseeable risk of asbestos being present in these types of structure. A Refurbishment and Demolition Survey following HSG264 available at www.hse.gov.uk/pUbns/priced/hsg264.pdf should be carried out before work commences to identify precautions and legal requirements enforced by Health and Safety Executive.

REPRESENTATIONS

At the time of writing the report, 9 objections have been received relating to the initial drawings

submitted.

The main points raised are summarised below:

- Out of character with area, too large and too high;
- Two dwellings on the plot represents over development;
- Scale and character out of keeping while loss of hedgebank takes away the country lane ambience;
- Poor provision of outdoor amenity space;
- Too close to the boundary of neighbouring properties;
- Loss of privacy;
- Represents 'garden grabbing';
- No topographical survey provided, floor levels have been raised;
- Footprint is substantially greater than the existing dwelling;
- Garages should be restricted for use as parking only;
- Does not acknowledge neighbouring Conservation Area and listed buildings;
- Traffic reversing on to Exeter Road is a hazard;
- Too close to existing properties;
- Pre application comments provided by the Planning Officer have not been addressed.
- An wildlife report relating to the pond should be undertaken

Following the submission of revised drawings, 4 objections received. The main points being:

- All previous comments remain relevant;
- The south house is set off the boundary with No. 21 but the north house is almost touching the boundary;
- Internal circulation is improved but the two bedrooms are cramped;
- Rounded corners soften the outline;
- Parking provision has been reduced (3 to 2) and will result in additional on street parking;
- Loss of historic wall.

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The main determining factors in this application are:

1) Policy

The NPPF states that full weight may be given to relevant policies adopted since 2004 (and in accordance with the Planning and Compulsory Purchase Act 2004) even if there is a limited degree of conflict with the NPPF.

The policies detailed in the following paragraphs have all been adopted since 2004. In relation to this proposal, the Development Plan has limited conflict with the NPPF and full weight is given to the relevant policies produced by Mid Devon District Council.

The site is located within the settlement limit of Silverton where policies COR1 and COR17 seek to encourage development in locations which are sustainable. The principle of developing the site for more than one dwelling (as existing) is in accordance with requirements of policy COR17. The existing bungalow is of no special architectural merit and is vacant. The site, on inspection, was rather overgrown but not to an extent to warrant a Wildlife Survey. The demolition of the bungalow will not in itself have an adverse impact on the character or appearance of Exeter Road. The site is not in a conservation area, although it is located adjacent to it.

2) Detailed Design and Layout

Parking

The proposed two storey, 3 bedroom, detached houses, are designed as a mirror image of one another. Following an Officer recommendation, the integral garages have been removed but with two parking spaces to the front of each dwelling retained.

Concern has been raised that the loss of garaging (a previously proposed) will result in on-street parking causing a hazard to users. Policy DM8 requires two spaces per property and the proposal meets this requirement. The visibility splay allows for ease of entry / egress to the satisfaction of the Highway Authority. More recent concerns received relating to the very recent removal of the hedgerow on the frontage of the property are noted. However, a site inspection indicates that the existing boundary / stone wall adjacent to the road has been retained and that the removal of the

hedgerow is clearance of the over grown front garden. Whilst there is sympathy for those concerned about its impact on the 'country lane ambience' and the neighbouring conservation area, planning / hedgerow removal consent would not have been required. Early discussions regarding the scheme with the Officer have indicated an intention for the retention of the stone wall and any removed stone would be retained and reinstated to define the new visibility splay should planning consent be forthcoming.

The drive will be surfaced with porous tarmac to prevent the discharge of surface water on to the highway. The surface material will provide an aesthetically acceptable appearance. As such, the application is in accordance with the requirements of policies DM2 and DM8 Local Plan Part 3 (Development Management Policies).

3) Layout

All development must seek to include high quality design (NPPF, Chapter 7) which respects the character in which it is located. This is supported by policies DM1, DM2, and DM3 of the Local Plan Part 3 which seeks high quality sustainable design and DM14 (design of housing). Policy DM15 provides a policy basis upon which the National Technical (Internal Space) Guidelines can be applied.

The proposed dwellings reflect the established building line along Exeter Road. They will be set further forward than the existing bungalow, but staggered. Their depth ensure that they sit within the forward and rear building lines of the neighbouring property to the south (No.21). Although the footprint of the properties do not match the staggered building line of those on Exeter Road exactly, they reflect it to the satisfaction of the Planning Authority. Since the dwellings reflect the existing building line they have no detrimental impact on the street scene in this regard. Although the street scene will be changed as a result of demolition of the existing dwelling and the erection of the 2 proposed dwellings, this change is not considered to detriment or to justify refusal. Both of the dwellings have reasonable sized rear gardens with adequate space and access for the storage of refuse/recycling bins and cycle storage to suit family accommodation.

The proposed dwellings will come closer to the northern and southern boundaries of the site than the existing bungalow. As such, the 'south house' will be between 2.2m and 3.4m from the nearest dwelling (No. 21). The revised drawings have removed the internal garage allowing the overall width of each house to be reduced by 450mm. This allowed for a larger gap between each building, an increase of approx. 900mm. This also allowed a little flexibility such that the gap between the 'south house' and No. 21 (measured from the mid point on the south house elevation) is now 2.9m (an increase of 1050mm) from the original submission. It is acknowledged that the proposed dwellings will be within relatively close proximity to one another (1.2m) but is sufficient for access to the rear of the property.

The proposed properties have a separation distance of 22m from the dwellings to the rear. The first floor windows on the rear elevation of each property are limited to one bedroom window (Bedroom 1) and to two velux roof lights (Bedroom 2). It is considered that the development will not result in unacceptable overlooking or loss of privacy to the neighbouring properties.

Side windows on each of the dwellings serve en-suite / ground floor wcs. While the en-suite windows are very small it is not considered unreasonable to condition them to ensure they are fixed and obscure glazed. With the provision of obscure glazing to the en-suite bathrooms and the development of the houses in accordance with the approved plans, it is considered that the dwellings will not have an unacceptably adverse impact on the amenity of the occupiers of neighbouring properties in accordance with the requirements of policy DM2 of Local Plan Part 3 (Development Management Policies).

Revisions to the drawings have sought to improve the height relationship with No.21. Ground works have ensured that both dwellings sit lower in the site - removing the need for the stepped access into the properties thus helping to meet requirement M1 of the Building Regulations 2010. Further, the ridge line and eaves heights of the two dwellings have been reduced to a height comparable to No. 21. Topographically the dwellings sit more comfortably within the site and will not be overbearing on the surrounding properties nor when viewed from the street within the wider site context.

While the dwellings will be higher than the existing bungalow, their siting within the forward and rear building lines of No.21 and the separation distance from the properties to the rear ensure the development will not result in a significant loss of light to either the neighbouring properties or their gardens.

The external materials will sit comfortably alongside the mix of materials currently used on properties in Exeter Road. There are multiple architectural styles evident along the road and while it is not considered necessary to match styles and materials, the contemporary design and choice of materials complements the existing properties in the road. As such the proposal sits comfortably next to the Conservation Area and neighbouring Listed Building. The development is in accordance with policy DM14 Local Plan Part 3.

Policy DM15 provides a policy basis upon which the National Technical (Internal Space) Guidelines can be applied. The Internal Space Guidelines seek to provide dwellings with suitably sized rooms and overall floorspace with adequate storage and movement within the building. Within a 2 storey (3 bed 5 person) property, a minimum floorspace of 93sqm is required. Each of the two properties provide in excess of this (approx. 125 sqm). For the reasons outlined above the proposal is not considered to be out of character with the area. Revisions to the drawings provide a scheme reduced in height, scale and massing. Distances between neighbouring properties have been eased and each property provides adequate internal and external amenity standards. As such, the proposal is not considered over development of the site.

4) Drainage

Foul sewage is to be connected to the main sewer. Permeable surface materials on the drive assist in the appropriate disposal of surface water.

5) Public Open Space

Mid Devon adopted policy requires that all new dwellings are subject to the necessary infrastructure payments relating to POS.

Should planning consent be forthcoming the applicant will be required to pay a financial contribution of £1442.00 towards off site public open space and play area provision at School Lane War Memorial, Silverton in accordance with the requirements of policy AL/IN/3 of the Allocations and Infrastructure Development Plan Document (Local Plan Part 2) and the SPD Funding Public Open Space through development.

At the time of writing this report the contribution has not been received. Should planning consent be forthcoming, consent will only be issued on receipt of the POS payment.

CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice.
3. Prior to the occupation of either dwelling hereby approved, the first floor en suite bathroom window shall be glazed with translucent glass and be fixed so to be non-opening. Once provided the translucent non-opening glazing shall be so retained.
4. The external doors, door frames and windows hereby approved shall be recessed into the walls in accordance with details to be submitted to and approved in writing by the Local Planning Authority. These works shall be carried out in accordance with the approved details and be so retained.
5. Notwithstanding the provisions of Article 3 of The Town and Country Planning (General Permitted Development) Order 1995 as amended by the Town and Country Planning (General Permitted Development) Amendment (No.2) Order 2008 (or any Order revoking and re-enacting that Order with or without modification) no development of the types referred to in Classes B, C of Part 1 of Schedule 2, relating to the enlargement of a dwelling consisting of an addition or alteration to its roof, shall be undertaken within the application site without the Local Planning Authority first granting planning permission.
6. Notwithstanding the provisions of Article 3 of The Town and Country Planning (General Permitted Development) Order 1995 as amended by the Town and Country Planning (General

Permitted Development) Amendment (No.2) Order 2008 (or any Order revoking and re-enacting that Order with or without modification) no new windows or doors shall be installed in the north facing elevation of the dwelling on the northern part of the site, or in the south facing elevation of the dwelling on the southern part of the site, without the Local Planning Authority first having granted planning permission.

7. No work shall be carried out on the site on any Sunday, Christmas Day or Bank Holiday or other than between the hours of 0730 and 1900 hours on Monday to Fridays and 0730 and 1300 on Saturdays.
8. Details of the boundary treatments including walls and fences and their materials shall be submitted to, and approved in writing by, the Local Planning Authority. Installation shall be in accordance with the approved details and shall be so retained.
9. Prior to the use of any above ground materials first being used on site, details/samples of the materials (including colour of render, brick, stone, mortar and paintwork) to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details/samples and be so retained.

REASONS FOR CONDITIONS

1. In accordance with the provisions of Section 51 of the Planning and Compulsory Purchase Act 2004.
2. For the avoidance of doubt and in the interests of proper planning.
3. To safeguard the privacy of the future residents of the properties and existing residents to No. 21 Exeter Road in accordance with Policy DM2 of the Local Plan Part 3: (Development Management Policies).
4. To safeguard the character and amenities of the area in accordance with Policy DM2 of the Local Plan Part 3: (Development Management Policies).
5. To ensure the use of materials and detailing appropriate to the development in order to safeguard the visual amenities of the area in accordance with Policy COR2 of the Mid Devon Core Strategy (Local Plan Part 1) and Policy DM2 of the Local Plan Part 3: (Development Management Policies).
6. To safeguard the residential amenities of neighbouring residents in accordance with Policy DM2 of the Local Plan Part 3: (Development Management Policies).
7. To safeguard the residential amenity of neighbouring residents during the construction period in accordance with Policy DM2 of the Local Plan Part 3: (Development Management Policies).
8. To ensure the details are appropriate to the development in order to safeguard the visual amenities of the area in accordance with Policy COR2 of the Mid Devon Core Strategy (Local Plan Part 1) and Policy DM2 of the Local Plan Part 3 (Development Management Policies).
9. To ensure the use of materials are appropriate to the development/works in order to safeguard the visual amenity of the area in accordance with Policy COR2 of the Mid Devon Core Strategy (Local Plan Part 1) and Policy DM2 of the Local Plan Part 3 (Development Management Policies).

INFORMATIVE NOTE

1. Survey Information on the existing dwelling's structure
There is a lack of information e.g. structural survey. You are advised that there is a foreseeable risk of asbestos being present in these types of structure. A Refurbishment and Demolition Survey following HSG264 available at www.hse.gov.uk/pUbns/priced/hsg264.pdf should be carried out before work commences to identify precautions and legal requirements enforced by Health and Safety Executive.

REASON FOR APPROVAL OF PERMISSION/GRANT OF CONSENT

The demolition of the bungalow and erection of two dwellings is in accordance with Policy COR17 of the Mid Devon Core Strategy (Local Plan Part 1) as the site is within the defined settlement limit of Silverton. The dwellings will not have a detrimental impact on the street scene and neither will they have an overbearing impact on the amenity of the occupiers of neighbouring properties in accordance with Policy COR2 of the Mid Devon Core Strategy (Local Plan Part 1) and Policy DM2 of the Local Plan Part 3 (Development Management Policies). The design will sit comfortably alongside existing properties in Exeter Road and both dwellings have reasonable sized gardens and parking provision. The size of the dwellings are in accordance with national policy guidance. The development is in accordance with Policies COR2, COR9 and COR17 Mid Devon Core Strategy (Local Plan Part 1) and Policies DM2, DM8 and DM14 of the Local Plan Part 3 (Development Management Policies). A financial contribution has been secured towards the off site provision of public open space in accordance with Policy AL/IN/3 of the Allocations and Infrastructure Development Plan Document (Local Plan Part 2).

PLANNING COMMITTEE
6th July 2016

REPORT OF JENNY CLIFFORD, THE HEAD OF PLANNING AND REGENERATION

**05/02315/OUT - OUTLINE FOR THE ERECTION OF AN
AGRICULTURAL WORKER'S DWELLING (RE-SUBMISSION) - LAND
AT NGR 316000 114353 (ADJ. SHALOM) CALLER'S LANE
CLAYHIDON CULLOMPTON**

Reason for Report:

The applicant has requested an alteration to the Section 106 Agreement tying the dwelling to the holding in respect of substituting two existing parcels of land with two new parcels of land.

RECOMMENDATION

Approve alteration to Section 106 Agreement to substitute land parcels.

Relationship to Corporate Plan:

Managing the environment

Financial Implications:

None

Legal Implications:

None

Risk Assessment:

None identified

1.0 BACKGROUND AND PROPOSAL

- 1.1 Planning permission was granted by Planning Committee on 4th January 2006 for a second agricultural worker's dwelling on land known as Caller's Farm, Clayhidon, subject to a Section 106 Agreement tying the dwelling to the existing farm.

The applicant has requested that two of the remote parcels of land subject to the Section 106 are removed from the tied land and replaced with two parcels that are closer to the farm. These parcels are as follows:

To be removed

ST1716 0619 at 2.05 hectares
ST1716 0901 at 2.86 hectares

Grade 3

To be added

ST1613 2751 at 1.42 hectares

ST1613 1433 at 3.2 hectares

Grades 3 and 4

The parcels to be removed are approximately 2.2 km to the north east of the farmhouse and remote from existing land serving the farm, whereas the parcels to be added are approximately 1 km to the south of the farmhouse, and adjacent to existing land serving the farm.

The parcels of land are similar in size overall (4.01 hectares to be removed, 4.62 to be added). The parcels to be added are closer to the existing farm and would allow the farm to operate more effectively.

Under Committee procedures to deal with requests to vary or delete pre-existing planning obligations (S106 Agreements), where the original planning application was considered by Planning Committee, the renegotiation of the S106 Agreement must be referred to Planning Committee for a decision.

Members are requested to confirm whether or not they approve the alteration of the Section 106 Agreement.

Contact for any more information

Tina Maryan Tel: 01884 234336

Background Papers

File Reference

05/02315/OUT

Circulation of the Report

Cllrs Richard Chesterton
Members of Planning Committee

PLANNING COMMITTEE

DATE: 6 July 2016

REPORT OF JENNY CLIFFORD, THE HEAD OF PLANNING AND REGENERATION

14/00881/MOUT – OUTLINE FOR A MIXED USE DEVELOPMENT COMPRISING UP TO 700 DWELLINGS, 22,000 SQUARE METRES OF B1/B8 EMPLOYMENT LAND, CARE HOME, PRIMARY SCHOOL AND NEIGHBOURHOOD CENTRE WITH ASSOCIATED ACCESS INCLUDING A LEFT IN LEFT OUT JUNCTION ON THE WESTBOUND A361 AND ACCESS AND EGRESS ON TO BLUNDELLS ROAD.

Cabinet Holder

Cllr Richard Chesterton

Responsible officer

Jenny Clifford, Head of Planning and Regeneration

Reason for Report: In light of ongoing negotiations over this application post Committee, to consider several proposed amendments to the draft S106 and planning conditions as a result.

RECOMMENDATIONS:

1. To amend draft condition 10 to allow development to commence on site, up to and including the occupation of 270 dwellings (or the equivalent amount of employment floorspace in traffic generation terms north of Blundells Road), prior to the construction of the full A361 road junction and its opening for public use. Amended wording as follows:

10. 'Either no more than 270 dwellings may be occupied on site or no employment floorspace over and above the amount (sq metres) equivalent to the occupation of 270 dwellings (equivalent in terms of traffic generation numbers) may be occupied on land to the north of Blundell's Road until the construction and opening for public use of the full A361 road junction and the linking road to Blundell's Road granted under permission 14/01168/MFUL (or as amended by a subsequent planning permission for this highway infrastructure).'

Reason: To ensure delivery of the full A361 road junction whilst ensuring adequate on site facilities are available for all traffic attracted to the site up to the specified amount of residential or employment development in the interest of the safety of all users of the adjoining public highway and to protect the amenities of the adjoining residents and area in accordance with policy in National Planning Policy Framework'.

2. To amend the draft condition 11 to allow the construction and occupation of employment land north of Blundell's Road without the need for the roundabout at the junction with Blundell's Road. Amended wording as follows:

11. 'No residential development hereby approved shall take place on land to the south of Blundell's Road until the roundabout at the junction of

Blundell's Road with the link road hereby approved under permission 14/01168/MFUL (or as amended by a subsequent planning permission for this highway infrastructure) has been constructed and made available for use'.

Reason: To minimise the impact of the development on the highway network in accordance with policy in National Planning Policy Framework'.

3. To amend the draft S106 agreement allow a change in the mix of affordable housing tenure; to allow 60% affordable rent units and 40% intermediate units. Previous committee resolution to be amended as follows:
 - i) 22.5% affordable housing on site to be provided for occupation on a 60% affordable rent and 40% intermediate tenure mix.

Relationship to Corporate Plan: To ensure the delivery of key plans for Mid Devon, including a thriving economy, better homes, empowering local communities and caring for the environment.

Financial Implications: Benefits in bringing forward development more quickly to trigger the payment of contributions towards traffic and social infrastructure and to deliver housing that will assist the Council's 5 year land supply of housing sites.

Legal Implications: To update the previous committee resolution to ensure compliance and avoid risk of legal challenge.

Risk Assessment: The risks are set out in the main body of the report.

1.0 BACKGROUND.

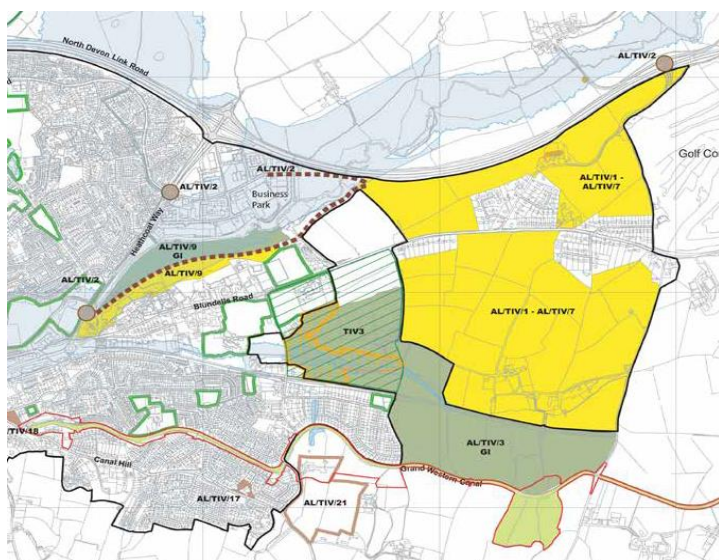
- 1.1 Application 14/00881/MOUT was submitted in outline and was for ' a mixed use development comprising up to 700 dwellings, 22,000 square metres of B1/B8 employment land, care home, primary school and neighbourhood centre with associated access including a left in left out junction on the westbound A361 and access and egress onto Blundells Road – land east of Tiverton, south of A361, and both north and south of Blundells Road Uplowman Road Tiverton Devon'. Work towards the S106 agreement has and is on-going, seeking to resolve outstanding issues. A 'mini' S106 has now been completed relating to Blundell's Road traffic calming. Its engrossment has ensured that funding has been committed, by the applicant, to the Blundell's Road traffic calming scheme, whilst the remaining issues of the S106 are negotiated. It commits funding, prior to the start of the traffic calming works, scheduled for July 2016. The 'mini' S106 will sit beside the main S106 delivering the committee resolution.

- 1.2 At the meeting of 23rd April 2015, Planning Committee resolved to grant planning consent on land within the Tiverton Eastern Urban Extension for up to 700 dwellings and 22,000sqm employment floor space subject to the signing of a S106 and conditions (application 14/00881/MOUT). The full Committee resolution on Application 14/00881/MOUT is set out in **Appendix 1** of this report. Negotiations regarding the S106 have been on-going. It is as a result of these negotiations that this report presents proposed changes to the S106 and also certain draft conditions. The application has not yet received planning permission as the S106 is unsigned.
- 1.3 In considering this report it is brought to Members attention that following on-going negotiations focused around the S106 agreement further amendments to draft conditions which will be the subject of a further report to planning committee (August meeting). A variation of condition application relating to the A361 Road Junction permissions will also be required and will also be addressed within the same report in August. The main points will relate to:
- The community centre land;
 - Timing of development;
 - Connection from the land holding on Area A (Chettiscombe Trust land) to Area B.
 - The second acoustic fence on the A361 road junction; and
 - Timing for the completion of the planting on the A361 road junction

2.0 POLICY BACKGROUND.

- 2.1 The Allocations and Infrastructure Development Plan Document (AIDPD) (adopted 2011) allocates sites for development. One such site is the 153 hectare mixed use site east of Tiverton, referred to as the Tiverton Eastern Urban Extension (EUE). This major strategic allocation reflects the approach of the Core Strategy to concentrate growth in Tiverton and Cullompton. Policy AL/TIV/1 of the AIDPD provides detail of its development:

- 1550 - 2000 dwellings, including a proportion of affordable housing.
- 95,000 - 130,000 sqm of employment floor space.
- Transport provision to ensure appropriate accessibility for all modes.
- Environmental protection and enhancement.
- Community facilities to meet local needs arising.
- Carbon reduction and air quality improvements.
- An agreed phasing strategy to bring forward development and infrastructure whilst retaining overall development viability.



Extract of development area from key diagram for Tiverton Allocations and Infrastructure Development Plan Document.

- 2.2 Policy AL/TIV/7 of the AIDPD outlines the need for the master planning of the site leading to the adoption of a Supplementary Planning Document. The Tiverton EUE Masterplan SPD was adopted by the Council in April 2014.
- 2.3 The production of the Masterplan SPD was made more complicated by the absence of some site-wide survey work. As a consequence it does not fully resolve the land use issues across the whole allocation. It therefore makes reference to the fully surveyed land area as Area A and the area of unresolved land use planning, as Area B. In the short term it results in a two phase delivery of the EUE. Area A and associated road infrastructure ahead of Area B. In the interest of delivering a comprehensive scheme the southern land parcel of Area A will make provision for access into Area B by means of a primary route through it and up to the boundary of Area B.
- 2.4 This report relates to Application 14/00881/MOUT (Chettiscombe Trust) that forms the majority part of Area A.

3.0 RELEVANT PLANNING HISTORY.

13/01616/MOUT – ‘Outline for the development of up to 330 dwellings together with public open space, associated infrastructure and other works including vehicular access, pedestrian/cycle links and highway improvements’. Granted September 2015.

14/00604/MFUL - ‘Erection of care home and 12 apartments with associated access, parking and landscaping, following demolition of existing hospital buildings (revised scheme)’ at Post Hill Hospital, Tiverton. Resolution to grant permission subject to a S106 agreement August 2014.

14/00667/MFUL – ‘Construction of a ‘left in left out’ road junction with associated engineering works, drainage facilities, embankment, soft landscaping and noise barrier’. Granted September 2014.(Phase 1 of highway junction relating to land to the south of the A361 only)

14/01168/MFUL – ‘Construction of a ‘cloverleaf’ road junction with access and egress onto both the eastbound and westbound carriageways of the A361 with associated engineering works, drainage facilities, embankments, road bridge, lighting, soft landscaping and a noise barrier to the rear of the houses on Uplowman Road, a roundabout, a stretch of connecting highway and a junction and access onto Blundell's Road with associated engineering works and landscaping’. Granted October 2014. (Phases 1 and 2 of highway junction relating to land to the north and south of the A361).

4.0 PROPOSED AMENDMENTS TO S106 / CONDITIONS ON 14/00881/MOUT.

4.1 Timing of development in relation to the new A361 junction.

4.1.1 Application 14/00881/MOUT has a resolution to grant planning permission subject to a signed S106 agreement and conditions. As drafted, condition 10 of the Committee Resolution is proposed as follows:

‘No development shall take place on site until the Left in Left out junction onto the A361 previously consented under LPA ref: 1400667/MFUL has been constructed and made available for use.

REASON: to ensure that adequate on site facilities are available for all traffic attracted to the site during the construction period, in the interest of the safety of all users of the adjoining public highway and to protect the amenities of the adjoining residents, and in accordance with policy in National Planning Policy Framework’.

and Condition 11:

‘No development hereby approved shall take place on land to the south of Blundell’s Road and / or the employment land until the roundabout at the junction of Blundell’s Road and the link road hereby approved has been constructed and made available for use.

REASON: To minimise the impact of the development on the highway network in accordance with policy in National Planning Policy Framework’.

4.4.2 This report seeks a change to that resolution to allow development to commence on site, up to and including the occupation of 270 dwellings, prior to the completion of the full A361 road junction. The Adopted Masterplan SPD (part 6.4) outlines that completion of the full A361 junction shall be completed

prior to the occupation of no more than 600 dwellings on the Eastern Urban Extension. Waddeton Park have consent to construct and occupy 330 dwellings without the need for the Left In Left Out or full A361 road junction. As such, in accordance with the adopted masterplan there are a remaining 270 dwellings that can be occupied before the completion of the full junction.

4.4.3 Funding to deliver the full A361 road junction is proposed as follows:

Funding Source	Contribution (£)
Waddeton Park (secured)	£1.7 million
Chettiscombe Trust (subject to S106)	£3.7 million
Area B (projected)	£2.6 million
LEP (match funding)	Up to £7.5 million
TOTAL	£15.5 million

4.4.4 Early development /delivery of housing is required to release development value on the site in order to be able to make the A361 financial contribution payments. As existing Condition 10 thwarts development on the Chettiscombe Trust land such that no development can take place until the junction has been constructed and made available for use. The first homes will therefore be provided after the up-front provision of highway infrastructure and yet the junction requires financial contributions from development in order to be built. This burdens the applicant such that the land is less attractive to developers building out the scheme which as a consequence thwarts the funding stream towards the delivery of the junction. There is a resulting mis-match between development on the ground and contributions required to service the construction of the A361 junction. Unless an amendment is made, it is likely that the junction and development will stall.

4.4.5 The full A361 road junction is due to commence on site in earnest, during 2017, for completion in 2018. Latest projections indicate that a single housebuilder would aim to build approximately 50 dwellings per year, but this may not be achieved in year 1. This rate is accelerated if more than one developer is operating on the site at the same time.

4.4.6 Prior to the completion of the full A361 road junction, it is considered there would potentially be three developers operating on the EUE at the same time, two on Waddeton Park land and one on Chettiscombe Trust land. The table below illustrates the anticipated housing delivery trajectory for the first few years:

Anticipated Housing Completions		
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Year	Waddeton Park completions assuming two developers	Chettiscombe Trust completions assuming 1 developer in these early years	Total per year	Running total
2017	50	25	75	75
2018	75	50	125	200

Whilst completion numbers are modest, there are clear implications associated with resulting traffic movements being directed down Blundell's Road during this period.

4.4.7 In allowing Condition 10 to be amended to deliver some housing (or equivalent employment floorspace) in advance of the new junction, there would be a general acceptance that construction traffic (for the housing element only as the A361 construction traffic would be taken directly off the A361) and traffic following occupation of completed properties would come along Blundell's Road until such time that the A361 road junction is completed and open to the public. The Waddeton Park development of 330 dwellings is able to be built out without the new A361 junction. Traffic in connection with this development will already travel along Blundell's Road.

4.4.8 Development has not commenced on the Waddeton Park site as early as anticipated. Waddeton Park has indicated that a reserved matters application will be submitted towards the end of August 2016. Commencement on site would be anticipated late spring 2017 and first occupation late 2017. DCC have advised that the quantity of vehicles coming to the site is not easily quantifiable at this point in time but would be more readily available through Condition 14 relating to the submission of a detailed construction management plan that will include timings of traffic movements. However, initial start-up of a site is where the greatest vehicle movements are with clearance and associated haulage. Vehicle movements then generally fall into a regular pattern. When the traffic regularises on the Chettiscombe Land it could potentially double that associated with the Waddeton Park site, but there will be a time delay between the two sites given their relative position in the planning process. Given, the anticipated completion of the full A361 road junction by September 2018, the greatest impact of the proposed change will be on the amenity of Blundell's School, pedestrians crossing the road and the general amenity of Blundell's Road. However, DCC could accept this level of development without the A361 junction, as without it, Chettiscombe Trust are unlikely to sign the S106 and DCC would not get any funding for the A361 junction.

4.4.8 A report to Scrutiny Committee on the 23 May 2016 indicated that until the Council can demonstrate a 5 year land supply (with 20% buffer) there will be

vulnerability to housing applications coming forward on sites that have not been planned for development. This is often dubbed 'planning by appeal'. Appeal losses can result in an unbalanced distribution of piecemeal development, development in areas considered unsuitable by the Council, reduced levels of funding towards affordable housing / community facilities and service infrastructure and additional costs to be borne by the Council. Decision making is also taken out of local control. When a local planning authority does not have a 5 year land supply, houses can be legitimately provided by developers on sites not planned for until supply figures are next tested and a new Local Plan is adopted. Allowing development to come forward on the Chettiscombe Trust land in a considered and controlled manner provides clear benefits towards accelerating delivery on the planned housing allocation at the EUE.

- 4.4.9 It is therefore recommended to allow development to commence on this site, up to and including the occupation of 270 dwellings, prior to the completion of the full A361 road junction. As an alternative (in traffic generation terms), it is proposed to allow flexibility in the condition to provide some employment floorspace on land north of Blundell's Road. The condition has been drafted to allow for either a limited number of dwellings or the equivalent amount of employment floorspace. No greater amount of employment floorspace is allowed on land to the north of Blundell's Road before the full A361 junction. Amended wording to Condition 10 is proposed:

10. 'Either no more than 270 dwellings may be occupied on site or no employment floorspace over and above the amount (sq metres) equivalent to the occupation of 270 dwellings (equivalent in terms of traffic generation numbers) may be occupied on land to the north of Blundell's Road until the construction and opening for public use of the full A361 road junction and the linking road to Blundell's Road granted under permission 14/01168/MFUL (or as amended by a subsequent planning permission for this highway infrastructure)'.

REASON: To ensure delivery of the full A361 road junction whilst ensuring adequate on site facilities are available for all traffic attracted to the site up to the specified amount of residential or employment development in the interest of the safety of all users of the adjoining public highway and to protect the amenities of the adjoining residents and area in accordance with policy in National Planning Policy Framework'.

- 4.4.10 The proposed amendments to Condition 10 would still require the full junction to be completed prior to the occupation of the 600th dwelling of the entire EUE as required by the Adopted Masterplan.

4.4.11 In the event that 270 dwellings can be occupied prior to the completion of the full A361 road junction, amendments to the draft condition 11 would be required. The current draft condition 11 does not allow any residential development on land south of Blundell's Road and/or on the employment land until the roundabout at the junction with Blundell's Road with the linking road to the A361 junction has been constructed and is open to the public. It is noted that the link road between the new junction and Blundell's Road is proposed to be delivered as part of the DCC led scheme for the full A361 road junction and the roundabout is proposed to be delivered by the developer(s) associated with the Chettiscombe Trust land. Under the existing draft condition no employment development can be developed without the roundabout having been constructed, even if the A361 junction and link road are in place. In order to facilitate the delivery of development that will trigger contributions towards the full A361 road junction it is proposed that reference to the employment land is deleted from the draft Condition 11. As revised, this would allow employment development without the need for the roundabout. This is acceptable to the Highway Authority. The following wording is proposed:

11. 'No residential development hereby approved shall take place on land to the south of Blundell's Road until the roundabout at the junction of Blundell's Road with the link road hereby approved under permission 14/01168/MFUL (or as amended by a subsequent planning permission for this highway infrastructure) has been constructed and made available for use'.

REASON: To minimise the impact of the development on the highway network in accordance with policy in National Planning Policy Framework'.

4.2 Affordable Housing.

4.2.1 The Committee resolution to Application 14/00881/MOUT resolved that the S106 would provide 22.5% affordable housing on site for occupation on an affordable rent basis:

(i) 22.5% affordable housing on site to be provided for occupation on an affordable rent basis.

4.2.2 The Draft S106 seeks a tenure mix of 60% affordable rent and 40% intermediate units. This proposed split of housing tenure complies with the MDDC Supplementary Planning Guidance on affordable housing delivery. Confirmation received from our Housing and Property Services (02.12.16) indicates support for such a change. Housing Services indicate further that the intermediate units may be either shared ownership or 80% discount market housing. A change to the Committee resolution is therefore sought to allow a change to the mix in affordable housing tenure to 60% affordable rent units

and 40% intermediate units. The committee resolution to be amended as follows:

Contact for more Information: Christie McCombe, Area Planning Officer (Tiverton Eastern Urban Extension) 01884 234277
cmccombe@middevon.gov.uk

List of Background Papers: Cabinet 17th April 2014 (Masterplan SPD)
Cabinet 7th April 2016 (Draft Design Guide)
Application 14/00667/MFUL Construction of a 'left in left out' (LILO) road junction.
Application 14/01168/MFUL Construction of a full A361 road junction
The adopted policies relating to the Tiverton Eastern Urban Extension may be viewed in the AIDPD at
<https://new.middevon.gov.uk/residents/planning-policy/mid-devon-local-plan/part-2-aidpd/>

Circulation of the Report: Members of Planning Committee

PLANNING COMMITTEE

DATE: 6 JULY 2016

REPORT OF THE HEAD OF PLANNING AND REGENERATION – MRS JENNY CLIFFORD

13/01616/MOUT – OUTLINE FOR THE DEVELOPMENT OF UP TO 330 DWELLINGS TOGETHER WITH PUBLIC OPEN SPACE, ASSOCIATED INFRASTRUCTURE AND OTHER WORKS INCLUDING VEHICULAR ACCESS, PEDESTRIAN/CYCLE LINKS AND HIGHWAY IMPROVEMENTS.

Cabinet Holder	Cllr Richard Chesterton
Responsible officer	Jenny Clifford

Reason for Report: In light of ongoing negotiations over this application post Committee, to consider several proposed amendments to the draft S106 and planning conditions as a result.

RECOMMENDATIONS:

1. That subject to the Council remaining the affordable housing provider, the agreed terms of the S106 be amended to allow 21.5% affordable housing together with a financial contribution towards affordable housing of £120,000 which will be delivered through a reduction in the cost of the land to the Council.
2. That the agreed terms of the S106 be amended to discharge market housing developers from all affordable housing requirements upon the completion of the Council's land purchase of part of the site and the grant to the Council of reserved matters or full planning permission for the affordable housing.
3. That subject to the agreement of recommendation 2 above and the Council remaining the affordable housing provider, the agreed terms of the S106 be amended to allow the open market housing to be constructed and occupied independently of the delivery of the affordable housing.
4. The agreed terms of the S106 be amended to allow a contribution of £125,000 from the developer towards the re-alignment of the 12th hole at the Golf Club without the need for match funding being provided by Tiverton Golf Club.

Relationship to Corporate Plan: To ensure the delivery of key plans for Mid Devon, including a thriving economy, better homes, empowering local communities and caring for the environment.

Financial Implications: Benefits in bringing forward development more quickly to meet the Council's 5 year land supply of housing sites, ensuring delivery of affordable housing and securing contributions towards Tiverton Golf Course.

Legal Implications: To ensure compliance with a committee resolution to avoid legal challenge.

Risk Assessment: The risks are set out in the main body of the report.

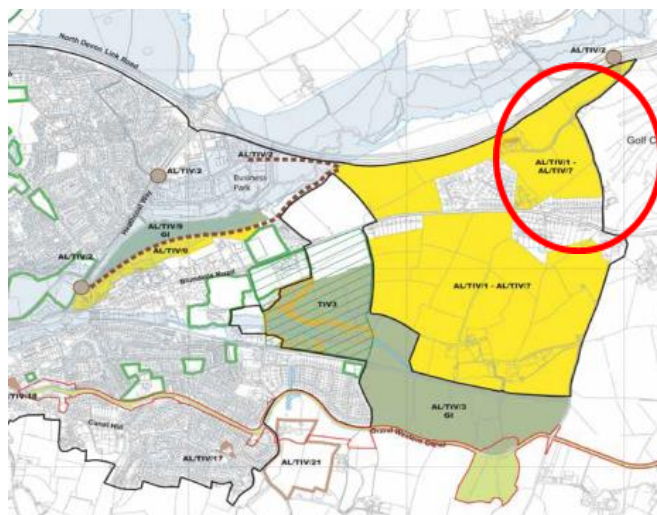
1.0 BACKGROUND.

1.1 This report relates to land on the Tiverton Easter Urban Extension (EUE). Policy AL/TIV/1 of the Allocations and Infrastructure Development Plan Document provides detail of this policy allocation:

- 1550 - 2000 dwellings, including a proportion of affordable housing.
- 95,000 - 130,000 sqm of employment floor space.
- Transport provision to ensure appropriate accessibility for all modes.
- Environmental protection and enhancement.
- Community facilities to meet local needs arising.
- Carbon reduction and air quality improvements.
- An agreed phasing strategy to bring forward development and infrastructure whilst retaining overall development viability.

Policy AL/TIV/7 of the AIDPD outlines the need for the master planning of the site leading to the adoption of a Supplementary Planning Document. The Tiverton EUE Masterplan SPD was adopted by the Council in April 2014.

1.2 This report relates to Application 13/01616/MOUT forming the north eastern part of the wider EUE site. The outline application was for the development of up to 330 dwellings together with public open space, associated infrastructure and other works including vehicular access, pedestrian/cycle links and highway improvements. The below plan shows the location of the site circled in red within the wider Tiverton EUE:



1.3 The application gained planning consent on 18th September 2015 with a signed S106 agreement to secure a range of clauses including those relating to affordable housing, highway works and financial contributions, as well as financial contributions towards education and community facilities.

- 1.4 The Housing Service of the Council proposes to acquire land on this site in order to be the affordable housing provider. Under this proposed arrangement the Council will deliver the whole of the affordable housing requirement of this permission, but this is dependent upon the completion of the land purchase and the granting of either reserved matters of a full planning permission for an affordable housing development. A draft contract with the landowner has been drawn up to purchase the land. This arrangement would mean that the market housebuilders on the remainder of the application site would not need to provide any affordable housing units. This arrangements for affordable housing trigger the need to change the existing S106 agreement.
- 1.5 Since the S106 for the planning application was entered into in September 2015, several amendments have now emerged as being required. They relate to the following elements:
- Percentage of affordable housing to be provided
 - Timing for the delivery of market and affordable houses
 - Delivery of the affordable housing
 - Golf club contribution

2.0 PROPOSED AMENDMENTS TO S106 / CONDITIONS.

2.1 Percentage of affordable housing.

- 2.1.1 As signed, the S106 requires 22.5% of the dwellings to be affordable unless otherwise agreed in writing with the Council. This percentage would deliver 75 affordable housing units on site.
- 2.1.2 The area of land the Council is looking to acquire is now thought likely to only be able to accommodate approximately 70 houses due to a below ground water mains that needs to be avoided.
- 2.1.3 The change proposed within the S106 is to reduce the percentage of affordable housing from 22.5% to 21.5% together with a financial contribution towards affordable housing of £120,000 which would be delivered through a reduction in the cost of the land to the Council. The latter would form part of the contract to acquire the land. The Housing Service is satisfied with this approach. The reduction in the percentage of affordable housing is considered acceptable on the basis of the financial contribution in the form of a price reduction to the cost of the land to the Council as the intended affordable housing provider.

2.2 Market / Affordable Houses.

- 2.2.1 As currently drawn up, the S106 requires:

- i) That development cannot start on site until an affordable housing scheme has been agreed by MDDC. This scheme would need to set out how the affordable units are to be provided including location, layout, tenure mix and details of the accommodation; and
- ii) That not more than 50% of the market dwellings can be occupied until all the affordable houses are constructed and ready for occupation and transferred to the affordable housing provider.

4.2.2 Point i) above requires a draft affordable housing scheme to be submitted for the Council to consider and the affordable housing requirement is currently enforceable against the whole site. With the Council's intended role as affordable housing provider for the whole development, it is proposed to amend the S106 so that the affordable housing requirements are no longer enforceable against the market dwelling providers.

4.2.3 Point ii) above links the timing of the market housing to the affordable. Since it is proposed that the land will be transferred to MDDC and the provision of all the affordable housing on the development site will be by the Council it is proposed that the clauses detailed above are deleted. This would mean that the provision of market houses would no longer be linked to the timing of the affordable dwellings. The provision of the affordable houses and their timing would remain within the Council's control due to the Council's acquisition of the land and intention to develop them. The Housing Service has no objection to the removal of the requirements set out in i) and ii) above as long as the Council is the affordable housing provider. If for any reason the Council does not complete the land purchase or gain planning permission for its affordable housing proposals, the affordable housing requirement will need to revert to the market developers. This safeguard will be retained. In planning terms, the proposed changes are considered acceptable only because the delivery of the affordable housing will be under the control of the Council

4.2.4 The change proposed within the S106 would discharge market housing developers from all affordable housing requirements upon the completion of the Council's land purchase and grant of planning permission for the affordable housing.

4.3 Golf Club contribution.

4.3.1 The S106 agreement includes a clause securing the lesser of 50% of the cost to the golf club for re-aligning the 12th tee or £125,000 as a financial contribution towards the works. The Golf Club has advised that they have no funding available to put towards these works. The applicant has agreed to amend the S106 so that no funding towards these works is required from the

Golf Club. The £125,000 would come from the developer without any match funding from the Club. This will require a minor change to the S106 agreement. It is also to be amended to more accurately refer to the 12th hole rather than 12th tee.

Contact for more Information: Christie McCombe, Area Planning Officer (Tiverton Eastern Urban Extension) 01884 234277
cmccombe@middevon.gov.uk

List of Background Papers: Cabinet 17th April 2014 (Masterplan SPD)
Application 14/00667/MFUL Construction of a 'left in left out' (LILLO) road junction.
Application 14/01168/MFUL Construction of a full A361 road junction
Application 13/01606/MOUT for up to 330 dwellings on land forming the north eastern part of the EUE. 18th September 2015.

Cabinet 7th April 2016 (Draft Design Guide)
The adopted policies relating to the Tiverton Eastern Urban Extension may be viewed in the AIDPD at
<https://new.middevon.gov.uk/residents/planning-policy/mid-devon-local-plan/part-2-aidpd/>

Circulation of the Report: Members of Planning Committee

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PLANNING COMMITTEE

DATE: 6TH JULY 2016

REPORT OF JENNY CLIFFORD, THE HEAD OF PLANNING AND REGENERATION

PROCEDURES FOR DEALING WITH REQUESTS TO VARY OR DELETE PRE-EXISTING PLANNING OBLIGATIONS (S106 AGREEMENTS).

Cabinet Holder Cllr Richard Chesterton
Responsible Officer Jenny Clifford, Head of Planning and Regeneration

Reason for Report: In order to amend the way in which proposals to vary or delete planning obligations are dealt with in light of recent requests and to respond to changes introduced by the Government.

RECOMMENDATION: That the amendments to the procedure and the scheme of delegation to the Head of Planning and Regeneration be agreed.

Relationship to Corporate Plan: None.

Financial Implications: None.

Legal Implications: Planning obligations are legally enforceable.

Risk Assessment: Previous provisions under the Growth and Infrastructure Act 2011 for applications to be made to renegotiate the affordable housing element of planning obligations where the Local Planning Authority had to issue the determination within 28 days unless an extension of time had been agreed in writing have been repealed.

Consultation carried out with: None.

1.0 RENEGOTIATIONS ON EXISTING PLANNING OBLIGATIONS: EXISTING PROCEDURES.

1.1 The Council receives requests from developers / land owners to vary or remove planning obligations. Such requests may arise from current economic conditions and examples of requests include the deferment of payments, the removal of payments or a reduction in the percentage of affordable housing provided on site.

1.2 The following procedure in such cases was agreed at Planning Committee on 8th January 2014:

1. That requests to vary or remove planning obligations be made in writing together with supporting evidence / justification.
2. Once such a request is received relevant consultees, the Chairman of Planning Committee, Ward Members and the Parish / Town Council be advised of the request and its nature and given 14 days within which to respond with comments.
3. That the responses from this consultation be taken into account in consideration of the proposals.
4. Negotiations with the developer / land owner will be conducted by Local Planning Authority, supported by Legal Services (as required).
5. Where the planning application to which the original planning obligation relates was considered by Planning Committee, the renegotiation be referred to Planning Committee for a decision. Where the renegotiation proposal is submitted under Section 106BA of the Town and Country Planning Act 1990, this will not apply if

referral to Planning Committee would be outside the date for determination. In such instances, the Case officer shall advise the Chairman and Vice Chairman of Planning Committee, the Cabinet Member for Housing and Ward Members of the proposed decision. Their views will be taken into account in the determination, which shall be made under delegated powers.

6. Where the relevant planning application to which the original planning obligation relates was dealt with under delegated powers, the Case officer shall advise the Chairman and Vice Chairman of Planning Committee and Ward Members of the proposed decision. The Chairman or Vice Chairman and Ward Members will have an opportunity to require that the Committee consider the changes to / removal of the planning obligation having given clear planning reasons. Where the renegotiation proposal is submitted under Section 106BA of the Town and Country Planning Act 1990, this opportunity will not apply if referral to Planning Committee would be outside the date for determination. In such instances, the Case officer shall advise the Chairman and Vice Chairman of Planning Committee, the Cabinet Member for Housing and Ward Members of the proposed decision. Their views will be taken into account in the determination, which shall be made under delegated powers.

- 2.3 The agreed Scheme of delegation to the Head of Planning and Regeneration for renegotiation of planning obligations (S106 agreements and Undertakings) is as follows:

In the case of renegotiations on a Planning Obligation (S106 Agreements and Undertakings):

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

2.0 The Growth and Infrastructure Act 2013

- 2.1 In 2013 under the Growth and Infrastructure Act, the Government introduced a new application and appeal procedure on planning obligations that relate to the provision of affordable housing. Under Section 106BA of the Town and Country Planning Act 1990, this introduced a mechanism for the renegotiation of the affordable housing element of S106 agreements and was intended to ensure that existing planning obligations negotiated in different economic conditions do not become a barrier to house building. This provision required Local Authorities to determine an application to revise affordable housing obligations within 28 days. In response to this tight timescale changes were introduced to the procedure for dealing with S106 amendments and the associated scheme of delegation.
- 2.2 The ability to make applications for amend affordable housing under Section 106BA of the Town and Country Planning Act 1990 has now been repealed by the Government necessitating further changes to the way in which requests to vary s106 agreements are dealt with.

3.0 **Proposed changes to procedures and the scheme of delegation.**

- 3.1 There have recently been several instances where proposed changes to s106 agreements which are either acceptable in planning terms or not considered to be significant have to come before Planning Committee purely because the planning application that they relate to was determined at Planning Committee rather than under delegated powers.
- 3.2 Under current procedures, where the planning application to which the original planning obligation relates was considered by Planning Committee, the renegotiation is referred to Planning Committee for a decision. This adds time to deal with the amendment and necessitates the writing of a committee report. Provisions to deal with applications made under Section 106BA of the Town and Country Planning Act 1990 may also now be deleted.
- 3.3 Under procedure changes introduced in January 2014 certain S106 amendments that related to affordable housing were amended by reference to the Chairman and Vice Chairman of Planning Committee, the Cabinet Member for Housing and Ward Members without referral to Committee. It is proposed to extend this approach, whilst still retaining Member input and building in an opportunity to call the proposed S106 revisions into Planning Committee for consideration. The proposed changes to the procedure are as follows:

EXISTING PROCEDURE:

5. Where the planning application to which the original planning obligation relates was considered by Planning Committee, the renegotiation be referred to Planning Committee for a decision. Where the renegotiation proposal is submitted under Section 106BA of the Town and Country Planning Act 1990, this will not apply if referral to Planning Committee would be outside the date for determination. In such instances, the Case officer shall advise the Chairman and Vice Chairman of Planning Committee, the Cabinet Member for Housing and Ward Members of the proposed decision. Their views will be taken into account in the determination, which shall be made under delegated powers.
6. Where the relevant planning application to which the original planning obligation relates was dealt with under delegated powers, the Case officer shall advise the Chairman and Vice Chairman of Planning Committee and Ward Members of the proposed decision. The Chairman or Vice Chairman and Ward Members will have an opportunity to require that the Committee consider the changes to / removal of the planning obligation having given clear planning reasons. Where the renegotiation proposal is submitted under Section 106BA of the Town and Country Planning Act 1990, this opportunity will not apply if referral to Planning Committee would be outside the date for determination. In such instances, the Case officer shall advise the Chairman and Vice Chairman of Planning Committee, the Cabinet Member for Housing and Ward Members of the proposed decision. Their views will be taken into account in the determination, which shall be made under delegated powers.

PROPOSED PROCEDURE:

Points 1 - 4 unchanged.

5. **The Case officer shall advise the Chairman and Vice Chairman of Planning Committee, the Ward Members and Cabinet Member for Housing (the latter in the case of amendments to affordable housing only) of the proposed decision. These Members may request that the Committee consider the**

proposed changes having given clear planning reasons, otherwise they will be decided under power delegated to the Head of Planning and Regeneration.

6. Deleted.

- 3.4 The accompanying proposed change to the scheme of delegation to the Head of Planning and Regeneration:

In the case of renegotiations on a Planning Obligation (S106 Agreements and Undertakings):

- 1. The Ward Member, Chairman and Vice-Chairman of Planning Committee and Cabinet Member for Housing (the latter in the case of amendments to affordable housing only) requires that the Committee consider the proposed changes having given clear planning reasons.**

Contact for any more information	Jenny Clifford, Head of Planning and Regeneration jclifford@middevon.gov.uk 01884 234346
Background Papers	Planning Committee: 30th March 2011, 27th April 2011, 8 th January 2014
File Reference	None.
Circulation of the Report	Members of Planning Committee, Cllr Richard Chesterton.