

# 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, 8 June 2016 at 2.15 pm

The next ordinary meeting of the Committee will take place on Wednesday, 6 July 2016 at 2.15 pm in the Phoenix Chamber, Phoenix House, Tiverton

#### **STEPHEN WALFORD**

Chief Executive  
31 May 2016

**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

## A G E N D A

### **MEMBES 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 - 18*)  
To receive the minutes of the previous meeting (attached).
- 4 **CHAIRMAN'S ANNOUNCEMENTS**  
To receive any announcements the Chairman may wish to make.
- 5 **DEFERRALS FROM THE PLANS LIST**  
To report any items appearing in the Plans List which have been deferred.

- 6     **THE PLANS LIST** *(Pages 19 - 44)*  
To consider the planning applications contained in the list.
- 7     **THE DELEGATED LIST** *(Pages 45 - 58)*  
To be noted.
- 8     **MAJOR APPLICATIONS WITH NO DECISION** *(Pages 59 - 60)*  
List attached for consideration of major applications and potential site visits.
- 9     **APPEAL DECISIONS** *(Pages 61 - 64)*  
To receive for information a list of recent appeal decisions.
- 10    **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** *(Pages 65 - 210)*  
To receive further expert advice with regard to the above application.
- 11    **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** *(Pages 211 - 242)*  
Report of the Head of Planning and Regeneration regarding the above application.
- 12    **TREE PRESERVATION ORDER 16/00001/TPO - MIXED SPECIES OF WOODLAND INCLUDING OAK, HAZEL, ASH, PINE AND MAPLE AT RED DEER HOUSE, OAKFORD** *(Pages 243 - 246)*  
To receive a report of the Head of Planning and Regeneration regarding this application (deferred from the previous meeting).
- 13    **REVIEW OF PLANNING COMMITTEE PROCEDURES - RECOMMENDATIONS FROM THE SCRUTINY COMMITTEE**  
Arising from a report of the Head of Planning and Regeneration (previously considered by Planning Committee on 20 April 2016), the Scrutiny Committee at its meeting on 23 May 2016 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 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.

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

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

Tel: 01884 234229

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Public Wi-Fi is available in all meeting rooms.

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## MID DEVON DISTRICT COUNCIL

**MINUTES** of a **MEETING** of the **PLANNING COMMITTEE** held on 11 May 2016 at 2.15 pm

### **Present Councillors**

Mrs H Bainbridge, Mrs F J Colthorpe,  
S G Flaws, P J Heal, D J Knowles,  
F W Letch, B A Moore, R F Radford,  
J D Squire and R L Stanley

### **Apologies Councillor(s)**

R J Dolley

### **Also Present Councillor(s)**

Mrs J B Binks and T G Hughes

### **Present Officers:**

Jenny Clifford (Head of Planning and Regeneration), Tina Maryan (Area Planning Officer), Simon Trafford (Area Planning Officer), Lucy Hodgson (Area Planning Officer), Amy Tregellas (Head of Communities and Governance and Monitoring Officer) and Sally Gabriel (Member Services Manager)

## **1 ELECTION OF CHAIRMAN (Vice Chairman of the Council in the Chair)**

**RESOLVED** that Cllr Mrs F J Colthorpe be elected Chairman of the Committee for the municipal year 2016/17.

(Proposed by Cllr P J Heal and seconded by Cllr R F Radford)

## **2 ELECTION OF VICE CHAIRMAN**

**RESOLVED** that Cllr P J Heal be elected Vice Chairman of the Committee for the municipal year 2016/17.

(Proposed by Cllr R L Stanley and seconded by Cllr B A Moore).

## **3 APOLOGIES AND SUBSTITUTE MEMBERS**

Apologies were received from Cllr R J Dolley.

## **4 PUBLIC QUESTION TIME (00-09-55)**

Sarah Coffin from Templeton regarding agenda item 13 application Menchine Farm, building to process digestate fibre into pellets.

I note your officer recommends approval with attached conditions. May I refer to conditions and “reasons for conditions” 6 and 7?

Condition 6 limits the process facility described in this application to only digestate fibre produced at Menchine AD so as to minimise the number of associated vehicular trips and does not allow for any importing of digestate fibre from any AD site.

Condition 7 requires records to be kept of the amount of fibre processed in the building as well as records of the load weight and number of vehicles exporting processed material from same.

May I ask Councillors how these two conditions will be effectively monitored and enforced, given the applicants failure in the past to supply accurate detailed records – as was revealed at the appeal hearing on 26 January 2016?

May I therefore request that should councillors be so minded as to accept the officers recommendation and approve this application, the following condition 8 is also included:-

A fit for purpose electrical monitoring/CCTV/data collection system is fitted as agreed with the LPA that will allow either direct monitoring or independent access by the LPA to all the necessary information required to comply with conditions 6 and 7.

This application was applied for after the application to double the AD output from 500kWE to 1MWe, but before the dismissal of the consequential appeal. The pelletiser building is thus bigger than necessary for a 500 kWE plant. Local residents are still concerned that the AD plant will operate at a higher output than permitted, given that there are two CHP units on site. Please therefore include the following condition 9 “the development shall not be commenced until a mechanical interlock system is in place to prevent simultaneous operation of the two CHP units”.

The reasons for these additional conditions are as follows:

To prevent any furtive increase in electricity production to the grid or to facilitate the process of drying and pelletising the digestate.

To prevent any additional costs to the tax payer in pursuing/verifying complete and correct data records from the applicant.

To assist applicant in ensuring any finished written data submitted is accurate and supplied within parameters required.

In the interests of planning openness and clarity as per government criteria for the revised planning and conditions guidelines.

This process does not come under any EA controls by way of additional permit or licence as the digestate is already designated as being from agricultural sources. Only the product requires certification.

To ensure the minimising of vehicular trips and protect the general amenities of the locality of Nomansland, as stated per reasons 6 and 7 and to enable the effective enforcement of conditions 6 and 7.

Should the applicant, given the past history, appeal these conditions it is our opinion that they are robustly defensible.

They are both reasonable, enforceable and with today's technology, possible.

Mr Scott representing CPRE and referring to Item 13 on the agenda (Menchine Farm) asked what plans has Mid Devon District Council put in place if the plant exceeds 500kw of energy?

Mrs K Govett, referring to item 13 on the agenda said I am sure you are aware of the concerns held by the CPRE over the growing number of AD plants and the effects they are having on rural England. Surely as a planning committee you would commend their work and principals.

With regard to planting schemes my understanding is that the planting scheme already approved, supposedly to hide the AD unit, has not yet been done on the site. Surely this was all part and parcel of the first application. As now reported in your document the location of the new building will mean that it now cannot be undertaken as per the original agreed plan. Surely this makes a farce of the previous approval for the scheme. Additionally there is no new planting scheme identifying species, mix and size of plant stock to be used.

Weight logs – I was concerned to be given sight of a copy of the logs which had been supplied by Mr Cole. Many of the records were incomplete and did not show accurate information.

Inaccuracies – I find the information regarding the new building misleading in the reports to this committee. On page 77 item 3.4 it states in the second paragraph that the new building will be divided into three areas of one third each. However on page 82 under "proposed development" third paragraph it states the building will be split internally into 2 parts with no mention of storage area for finalised pellets. This would appear to show the inaccuracy of the plans submitted or will there be yet another planning application submitted for a storage shed?

Committee members, I ask you to consider just one more thing. Every time we have an addition to the original application, every time we have a new application for chicken sheds we hear – "but it is only another few more traffic movements". Another 100 here and another 100 there. Barely another 1 per day. But what I do ask that you consider is that the movement of tractor trailer units into this industrialised site are concentrated into time periods and are a journey in and out. So comparison cannot be made over a year but over the number of days that transport in and out will be made. If you lived in Nomansland you would have more sympathy and understanding as to how our lives are being ruined. The map and report in this week's Tiverton Gazette says it all and I hope that before you reach your decision you will all have looked at this article.

County Councillor Berry referring to Item 1 on the Plans List (Brimstone Lane, Westleigh) asked how do you decide on what is isolated and a new home in the countryside, please define 'isolated' as there are 2 dwelling houses close by and the Grand Western Canal is within 200 yards of the property site. Mr Caudwell agrees on the agricultural tie for the house and the land; when Planning Officers visited the site there weren't animals, the owner has been busy fencing all his fields so they are stock proof. Mr Caudwell proposes to use the buildings on the farm to rear calves and produce beef. The site has a grain store and machinery will be kept on site

which needs to be supervised. There are no objectors to the application; planning policy is for guidance only, please consider this application as these people would like to get into farming.

The Chairman indicated that answers to questions would be given when the items were discussed.

## 5 MINUTES OF THE PREVIOUS MEETING (00-21-55)

The Minutes of the meeting held on 20 April 2016 were approved as a correct record and **SIGNED** by the Chairman.

## 6 CHAIRMAN'S ANNOUNCEMENTS (00-23-00)

The Chairman had the following announcements to make:

- She welcomed Cllr Heal as her Vice Chairman
- She thanked those Members who had stood down (due to the agreed reduction in numbers for the Planning Committee) for their work over the previous year.
- She informed the meeting that a Temporary Senior Enforcement Officer had been recruited and would be starting immediately.

## 7 MEETING MANAGEMENT

The Chairman indicated that she intended to take Item 20 (Start Time of Meetings) as the next item of business.

## 8 START TIMES OF MEETINGS

Discussion took place regarding the start time of meetings for the municipal year.

**RESOLVED** that the meeting of the Planning Committee continue to be held at 2.15pm.

(Proposed by the Chairman)

## 9 ENFORCEMENT LIST (00-27-09)

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

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

Arising thereon:

a) No. 1 in the Enforcement List (***Enforcement Case ENF/15/00112/UNLD – building frontage incorporating charity shop allowed to deteriorate causing adverse effect on the visual amenity of the area. The Society for the Protection and Re-Homing of Animals, 24 Gold Street, Tiverton***).

The Head of Planning and Regeneration outlined the contents of the report stating that the only reason this report was back before Members was that the Legal Team

had identified that, although the map was annotated showing number 24 within the polygon, as originally shown at Committee, the property affected was in fact a very small area immediately adjacent to that and had not been shown in the report with the correct polygon. This report was therefore presented to confirm the resolution to take formal action based on the recent information identifying the location of the property in question on the plan.

**RESOLVED** 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 property frontage. 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.

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

## 10 DEFERRALS FROM THE PLANS LIST

There were no deferrals from the Plans List.

## 11 THE PLANS LIST (00-35-00)

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

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

(a) Applications dealt with without debate.

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

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

(i) No 3 on the Plans List (**16/00392/FULL – change of use of former day centre to single residential dwelling – Old Bartows, Bartows Causeway, Tiverton**) be approved subject to the provision of a Section 106 Agreement/Unilateral Undertaking and conditions as recommended by the Head of Planning and Regeneration.

(Proposed by the Chairman)

### Notes:

- (i) Cllr S G Flaws declared a disclosable pecuniary interest as the property owner and left the meeting whilst the vote was taken;
- (ii) Cllrs Mrs F J Colthorpe and D J Knowles declared a personal interest as the applicant was known to them.

(ii) No 4 on the Plans List (**16/00499/HOUSE – Erection of a two storey side extension and single storey extension to the front – 23 Brewin Road, Tiverton**) be approved subject to conditions as recommended by the Head of Planning and Regeneration.

(Proposed by the Chairman)

Notes:

- (i) Cllr R L Stanley and P J Heal declared personal interests in the application as Cabinet Member for Housing and Chairman of the Decent Affordable Homes Policy Development Group respectively.

- (b) No 1 on the Plans *List (16/00108/OUT – Outline for the erection of dwelling – land at NGR 304865 115568, corner of Brimstone Lane, Westleigh).*

The Area Planning Officer outlined the contents of the report by way of presentation highlighting the site location plan and photographs from various aspects of the site. She made reference to public question time, defining in planning terms the word isolated: being isolated from facilities, services and day to day needs like shops public transport and facilities. She stated that in her opinion the applicant had not demonstrated that special circumstances existed to justify an isolated new home in the countryside.

Consideration was given to:

- There being no habitual house on 135 acres of land
- The fact that the applicant had requested to rebuild the derelict cottage on site but had not received planning permission
- The secluded and well screened position of the proposed dwelling
- The welfare of the animals which were proposed to be kept on site
- Security issues
- The need for the dwelling to be tied to the land

**RESOLVED** that:

(a) planning permission be granted subject to the prior signing of a S106 Agreement tying the property to the land;

(b) delegated authority be given to the Head of Planning and Regeneration to provide a set of conditions for the development;

(c) Any subsequent reserved matters application for the dwelling be brought to the Committee for determination.

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

Notes:

- i) Cllr Mrs F J Colthorpe declared a personal interest as the applicant's wife was known to her;
- ii) Mr Caudwell (Applicant) spoke;
- iii) Cllr Mrs C A Collis spoke as Ward Member;
- iv) Cllr Mrs Colthorpe requested that her abstention from voting be recorded;

- (v) The following late information was reported: 10<sup>th</sup> May 2016

S106 Payment received in respect of public open space of £1205.00 on 9<sup>th</sup> May 2016.

Paragraph omitted from Officer Report to be inserted 'Materials and Considerations'

Page 27 after sentence 'The applicant states that a presence is required on site throughout the year, especially at lambing time and during calving....

Information to support the application dated January 2016 advises 'the livestock element so far for 2015 has comprised 36 heifers, 60 ewes and their lambs and 100 young pheasant poults. Little information is supplied on stock numbers at any one time for sheep and cattle, nor age at acquisition and how long they are reared before sale. Neither have future stocking level figures been supplied.

- (c) No 2 on the Plans *List (16/00332/FULL – Formation of parking area and landscape planting bund – land and buildings at NGR 305188 112386 (Hitchcocks Business Park), Uffculme).*

The Area Planning Officer outlined the contents of the report by way of presentation highlighting the site location plan and identifying the proposed car park and the bund. Members also viewed photographs from various aspects of the site.

Consideration was given to any possible light pollution.

**RESOLVED** that planning permission be granted subject to conditions as recommended by the Head of Planning and Regeneration with an amendment to Condition 4 stating that: the lighting shall be provided only in accordance with the submitted and approved details for P851 lights, received by the Local Planning Authority on the 15<sup>th</sup> of April 2016. The approved lights shall be pole mounted at a height of 8 metres, and shall be so retained thereafter.

(Proposed by Cllr R L Stanley and seconded by Cllr B A Moore)

Notes:

- (i) Cllr R L Stanley declared a personal interest as Cabinet Member for Housing and Property Services;
- (ii) Cllr R F Radford spoke as Ward Member;
- (iii) The following late information an update to Condition 4 as quoted above.

## 12 THE DELEGATED LIST (1-11-48)

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

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



### 13 MAJOR APPLICATIONS WITH NO DECISION (1-12-00)

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

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

### 14 APPEAL DECISIONS (1-13-00)

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

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

### 15 APPLICATION 15/00573/FULL - ERECTION OF NEW BUILDING FOR PROCESSING DIGESTATE FIBRE IN ASSOCIATION WITH EXISTING AD PLANT - LAND AT NGR 283096 113579 (MENCHINE FARM), NOMANSLAND (1-14-00)

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 reminding Members that on 29 July 2015, the Committee had considered the application and had deferred any decision until the outstanding appeal at Menchine farm with regard to the AD Plant capacity had been completed. The appeal had been dismissed and therefore the application for the erection of a new building for processing digestate fibre was before the Committee today for determination.

He highlighted the site location plan, the proposed block plan for the development, which identified the locality of the AD Plant and other units on the site, the proposed elevations and site sections, proposed floor space and photographs from various aspects of the site. He added that the provision of additional conditions 6 and 7 would provide additional control.

Referring to the questions posed in public question time: the landscape impact issues could be controlled by Condition 5. Data had been received from the applicant with regard to weight logs and these had been promised on a regular basis for monitoring. An explanation had also been given on how the proposed building would be divided up. He referred to the suggested conditions put forward by Miss Coffin, with regard to the proposed Condition 8, he felt that there was a need for reasonableness and proportionality and that Conditions 6 and 7 covered this issue. The proposed Condition 9 would affect the AD plant and that was not being considered within this application; but again conditions 6 and 7 would control this issue. The Head of Planning stated that whilst condition 6 would restrict the building to processing digestate from the Menchine Farm AD plant only, the wording of condition 7 could be amended to require records of the amount and source of digestate fibre processed at the building to be kept and made available to the Local Planning Authority.

Consideration was given to:

- The output from the AD Plant
- Estimated additional traffic movements on top of the original transport issues



- The size of the proposed building in line with the result of the Inspectors decision to limit the capacity of the AD Plant
- The justification for a building that size
- Visual impact
- The reduction in volume from digestate to pellet form and the use of the pellets
- The data/record keeping requested had been submitted
- Limited noise of processing
- Traffic movements
- Industrialisation of a rural area, scale and massing on the site
- Planting and screening of the site
- Whether the applicants were still focussing on an increased output
- The possibility of visiting such a scheme in the local area.

**RESOLVED** that the application be deferred for more information on the need for the size and capacity of the building proposed in relation to the digestate produced from Menchine Farm AD Plant with a maximum of 500 kw output.

(Proposed by Cllr R L Stanley and seconded by Cllr F W Letch)

- i) Cllr R F Radford declared a disclosable pecuniary interest as a fellow chicken farmer and left the meeting during the discussion thereon;
- ii) Cllr Mrs F J Colthorpe declared a personal interest as the applicant, his extended family and some of the objectors were known to her;
- iii) Cllrs B A Moore and R L Stanley declared personal interests as some of the objectors were known to them;
- iv) Mr Cole (Applicant) spoke;
- v) Mr Govett (objector) spoke;
- vi) Cllr Mrs J B Binks spoke as Ward Member;
- (vii) The following late information was reported: Page 73: I further letter of objection has been received in addition to those set out in the report, referring to the negative impact that further concentration of activity at Menchine Farm will have on locality.

Officer comment: No further action required as these matters are covered in the report and the recommendation.

11<sup>th</sup> May 2016

Please revise wording of condition as follows – bold text are new inserts

5. The proposed scheme of landscaping adjacent to the application building as shown on plan MF/FB/01B (**received on 26<sup>th</sup> May 2015**) and as required as part of the scheme approved for the AD plant (**approved under LPA ref: 14/00575/MFUL**) shall be carried out in the first planting season following the construction of the building hereby approved. In addition a further

scheme of planting immediately to the south and west of the building hereby approved shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of its construction, and shall be implemented in the first planting and seeding season following the construction of the building hereby approved. 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. Once provided, the landscaping scheme shall be so retained.

vii) \*Report previously circulated copy attached to minutes.

**16 APPLICATION 16/0001/TPO MIXED SPECIES OF WOODLAND INCLUDING OAK, HAZEL, ASH, PINE AND MAPLE AT RED DEER HOUSE, OAKFORD, TIVERTON (2-03-45)**

The Committee had before it a \* report of the Head of Planning and Regeneration regarding the above application.

Due to the lack of photographic evidence it was agreed that this item be deferred until the next meeting.

**17 APPLICATION 16/00015/MFUL - ERECTION OF AN 83 BEDROOM PREMIER INN HOTEL AND INTEGRAL RESTAURANT WITH ASSOCIATED ACCESS AND LANDSCAPING AT MULTI STOREY CAR PARK, PHOENIX LANE, TIVERTON ((2-04-58)**

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 by way of presentation, highlighting the location of the proposed hotel, the footprint of the hotel, various elevations, the floor plans, the proposed new access to the car park and proposed alterations and internal changes; the cross section showing the height of the proposed development in association with the height of Phoenix House. Models were viewed of different aspects of the proposed development alongside aerial modelling and photo montages showing the extent of the proposal.

Consideration was given to:

- The height of the proposed development and the original consent for the multi storey car park
- The reduction in view of Haymen's Hill from Phoenix Lane
- The updated policy framework that needed to be considered
- Internal changes to the car park
- The business case for the development
- The economic benefit of the scheme and the regeneration of the town centre
- The contemporary appearance

**RESOLVED** that planning permission be granted subject to :

(i) conditions as recommended by the Head of Planning and Regeneration with additional conditions:

13. The alterations to the multi storey car park to provide new vehicular and pedestrian access and internal re-arrangements shall be carried out in accordance with the construction phasing detailed on drawing 3718.P23.3.

**Reason**

To ensure the safe and continued use of the multi storey car park during the construction of the development hereby permitted.

14. The extent of demolition shall be limited to that shown on the approved drawings and application details. No other demolition shall take place.

**Reason**

To safeguard the character and appearance of the surrounding area in accordance with policy DM2 Local Plan Part 3 (Development Management Policies).

All residue materials resulting from the demolition of the application building, and which are not to be recycled on site, shall be removed from the site within one calendar month from the date on which the demolition is completed.

**Reason**

To safeguard the character and appearance of the surrounding area in accordance with policy DM2 Local Plan Part 3 (Development Management Policies).

16. Once begun, demolition shall be continued to its completion in accordance with a timescale which shall first have been submitted to and approved in writing by the Local Planning Authority.

**Reason**

To safeguard the character and appearance of the surrounding area in accordance with policy DM2 Local Plan Part 3 (Development Management Policies);

(ii) an additional condition regarding the installation of electro charging; and

(iii) that delegated authority be given to the Head of Planning and Regeneration in consultation with the Head of Housing and Property Services to finalise negotiations with regard to a Section 106 agreement regarding a financial contribution towards improvements to the public realm within Tiverton.

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

- i) Cllr R L Stanley declared a personal interest as Cabinet Member for Housing and Property Services as he had had discussions regarding the development;
- ii) Cllr D J Knowles declared a personal interest as he knew some of the objectors;
- iii) Miss Rees (Agent) spoke;
- iv) Cllr S G Flaws requested that his abstention from voting be recorded;
- (v) The following late information was reported: the inclusion of additional conditions as set out above and an updated reason for approval: The application for the erection of an 83 bedroom hotel including a 76 cover restaurant is considered, on balance, to be acceptable. The impacts of the development have been weighed against the economic benefits. It has been identified that the visual impact of the development would cause some harm to

the setting of the conservation area and that in this respect there is some conflict with policies DM2, DM27 Local Plan Part 3. However, it is considered that the economic benefits of the proposal and taking into account that the application is in a sustainable location, will not increase flood risk to the site or surrounding buildings, surface water run off can be controlled, there are no harmful environmental or ecological impacts and satisfactory access can be achieved, outweigh the harm to the conservation area. The proposal is considered to be in accordance with policies COR1, COR6, COR7, COR9, COR11 and COR13 Mid Devon Core Strategy (Local Plan part 1), Policies DM1, DM2 (in part), DM3, DM4, DM6, DM7, DM8, DM17, DM24 and DM27 (part) of the Local Plan Part 3 (Development Management Policies) and the National Planning Policy Framework. It is therefore recommended that planning permission be granted;

(vi) \*Report previously circulated copy attached to minutes.

## 18 **PLANNING PERFORMANCE AGREEMENTS (2-39-00)**

The Committee had before it a \* report of the Head of Planning and Regeneration advising Members on the proposed use of planning performance agreements for major applications and for associated changes to be made to pre-application advice guidance. She stated that this was a project management tool which the local planning authorities and applicants could use to agree timescales, actions and resources for handling particular applications.

Consideration was given to any impact on Planning Committee decisions

**RESOLVED** that:

- a) the intention to enter into planning performance agreements for major applications be **NOTED**.
- b) pre-application advice guidance be amended to refer to this and that delegated authority be granted to the Head of Planning and Regeneration to make these changes.

(Proposed by the Chairman)

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

## 19 **COMMITTEE DECISIONS 2015/16 WHICH WERE NOT IN AGREEMENT WITH OFFICER RECOMMENDATION. (2-45-57)**

The Committee had before it and **NOTED** a report \* of the Head of Planning and Regeneration providing information where the Planning Committee had made decisions not in agreement with officer recommendation.

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

## 20 **APPEAL DECISIONS 2015/2016 (2-47-06)**

The Committee had before it and **NOTED** a report \* of the Head of Planning and Regeneration providing information on the outcome of planning appeals for the financial year 2015/16.

She outlined the contents of the report stating that 34 appeals were determined within that period: none had been withdrawn; 10 (29%) had been allowed and 24 (71%) had been dismissed.

Consideration was given to costs against the authority. It was requested that Members be circulated with this specific information.

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

## 21 **PLANNING PERFORMANCE 2015/16 (2-51-05)**

The Committee had before it and **NOTED** a report \* of the Head of Planning and Regeneration providing information on the performance of the Planning Services for quarter 4 and the full 2015/16 financial year.

She outlined the contents of the report stating that performance against national and local indicators were above target, especially Government targets; she highlighted an important note on major application statistic reporting: that 53% statistic for major applications determined within 13 weeks reported included all major applications and did not take into account any extensions of time agreed with the applicant or planning performance agreements (PPAs) that had been entered into. Government instructions to Councils over this performance target removed reporting applications with extensions of time or PPAs from this target as they were reported separately. Once these had been removed 87% of major applications were determined within 13 weeks compared with the target 60%. This performance target had therefore been met.

She highlighted the enforcement data and updated the meeting on missing statistics for quarter 4 that of 83 for new enforcement cases registered giving a total of 222 for the year and 62 for enforcement cases closed giving a total of 201 for the year.

She also highlighted comparison data with other local authorities.

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

(The meeting ended at 5.32 pm)

**CHAIRMAN**

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## PLANNING COMMITTEE AGENDA - 8th June 2016

### Applications of a non-delegated nature

<u>Item No.</u>	Description
1.	<p>16/00180/FULL - Erection of 2 dwellings following demolition of existing dwelling (Revised Scheme) at 19 Exeter Road, Silverton, Exeter.</p> <p><b>RECOMMENDATION</b> Subject to the provision of a Section 106 Agreement grant permission.</p>
2.	<p>16/00396/FULL - Erection of a new day centre following demolition of public toilets at Public Conveniences, Wyndham Road, Silverton.</p> <p><b>RECOMMENDATION</b> Grant permission subject to conditions.</p>
3.	<p>16/00500/ADVERT - Advertisement Consent to display 1 freestanding Heritage Information panel at The Walronds, 6 Fore Street, Cullompton.</p> <p><b>RECOMMENDATION</b> Grant Advertisement Consent</p>
4.	<p>16/00525/FULL - Conversion of former stables to form 1 dwelling at Newland Farm, Cullompton, Devon.</p> <p><b>RECOMMENDATION</b> Refuse permission.</p>

**Application No. 16/00180/FULL**

**Plans List No. 1**

**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





## **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](http://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 overgrown 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](http://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).

Application No. 16/00396/FULL

Plans List No. 2

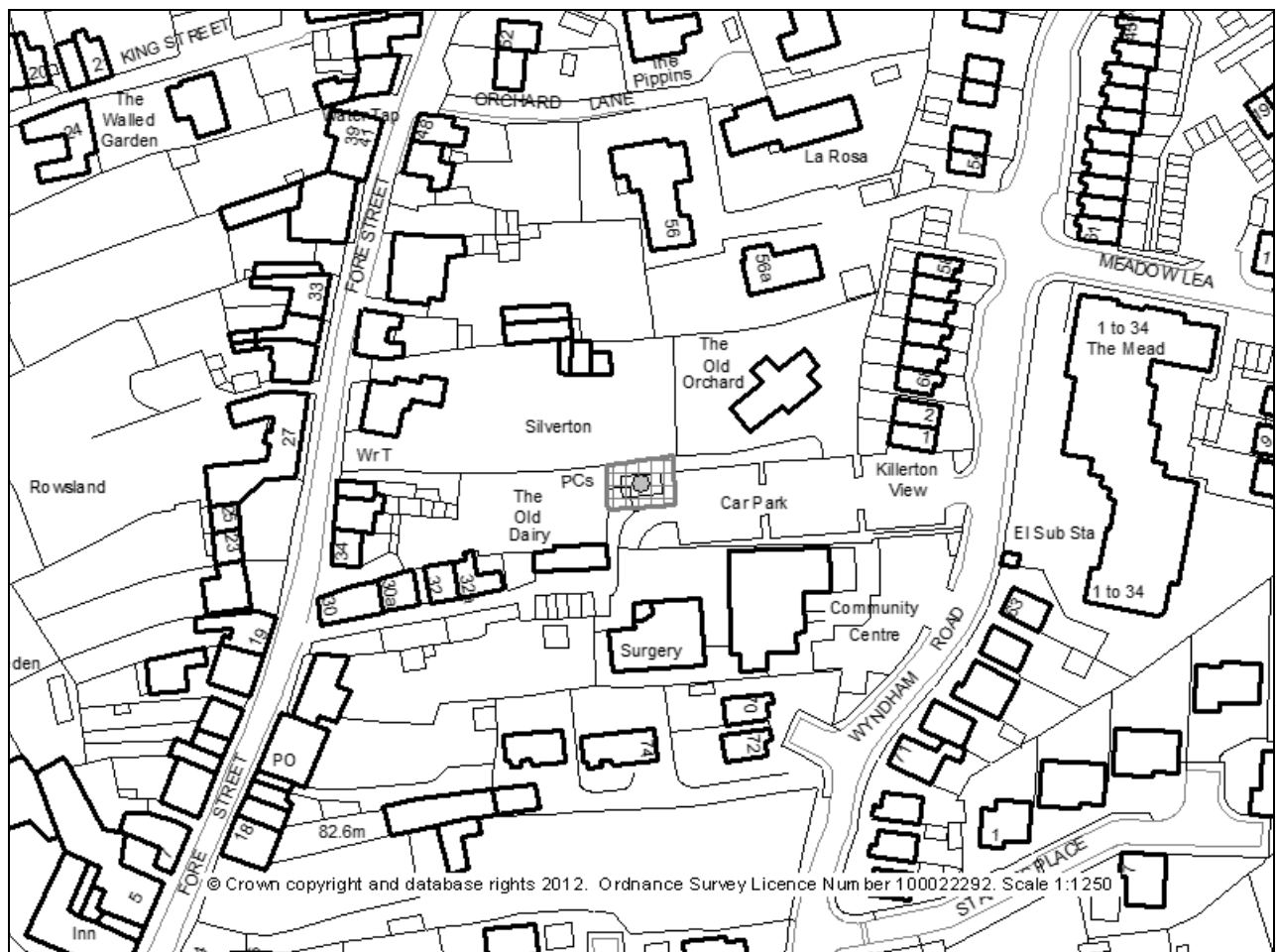
**Grid Ref:** 295672 : 103019

**Applicant:** Mrs J Roach

**Location:** Public Conveniences  
Wyndham Road  
Silverton Devon

**Proposal:** Erection of a new day  
centre following  
demolition of public  
toilets

**Date Valid:** 15th March 2016





**Application No. 16/00396/FULL**

## **RECOMMENDATION**

Grant permission subject to conditions.

## **PROPOSED DEVELOPMENT**

The proposal is for the demolition of a block of public conveniences and their replacement with a new day centre. The existing toilets are located within the car park for the Silverton doctors' surgery and have a width of approximately 9.1 metres and depth of 4.5 metres, a ridge height of 4.4 metres and a total footprint of 41 square metres. The proposed day centre is a single storey, detached building which will measure approximately 13.4 metres wide and 6.1 metres at its deepest, and 5.5 metres elsewhere. The proposal has a ridge height of approximately 5.1 metres and eaves height of 2.2 metres. The total footprint will be approximately 85 square metres. The windows and doors will be white uPVC, the walls will be off-white painted render and the roof will be covered in plain grey concrete tiles. Internally, the proposal will provide a day room, treatment room, kitchen, toilet and store room.

## **APPLICANT'S SUPPORTING INFORMATION**

None

## **PLANNING HISTORY**

84/01866/FULL DEEMED CONSENT for the erection of public conveniences - DEMCON  
05/01016/PE Change of use from Public Convenience to office accommodation - REC

## **DEVELOPMENT PLAN POLICIES**

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

COR1 - Sustainable Communities  
COR2 - Local Distinctiveness  
COR17 - Villages

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

DM2 - High quality design  
DM8 - Parking  
DM25 - Community facilities  
DM27 - Development affecting heritage assets

## **CONSULTATIONS**

### **HIGHWAY AUTHORITY - 15th March 2016**

Standing advice applies  
<http://www.devon.gov.uk/highways-standingadvice.pdf>

### **SILVERTON PARISH COUNCIL - 5th April 2016**

Approval.

## **ENVIRONMENTAL HEALTH - 30th March 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 potentially hazardous materials should be assessed.

Reason: In the interests of public health and protection of the environment.

Air Quality - no objection to this proposal

Environmental Permitting - N/A

Drainage - no objection to this proposal

Noise & other nuisances - 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 - Not applicable

Licensing        If there are to be any licensable activities taking place you should ensure that there is a relevant licence in place. If more information is needed about what requires a licence please contact the licensing team on 01884 244617

Food Hygiene - No objections.

INFORMATIVE: Any food & drink operation should be registered with Environmental health 28 days prior to starting. Ensure is separate wash hand basin sink in kitchen & sufficient ventilation in kitchen & WC. Feel free to contact Environmental health for advice.

Private Water Supplies - no objection to this proposal

Health and Safety - No objections.

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 <http://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**

One representation received. In summary the comments stated:

- Supports proposal, a much needed venture in the village and it is difficult to find local community places that support individuals and carers

## **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

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

- 1. Provision of community facilities**
- 2. Design**
- 3. Highways and parking**

### **1. Provision of community facilities**

Policy DM25 'Community facilities' takes a positive approach to the provision of new community facilities. The policy sets criteria to be met including that the facility provide 'a local community benefit', are 'easily accessible by the local community' and be 'well related to a settlement'. The existing toilet facility, which is currently boarded up would be lost. It is proposed to be replaced with a new day centre which is a community based venture being led by a newly registered charity. The charity has a focus on the provision of a range of services for the village of Silverton, of which the day centre is one element. The proposal would be run primarily by local volunteers and the provision of the building in the long run is anticipated to allow the running of a memory café, respite care, community café, bereavement counselling and IT access and training. The services are proposed for the benefit of the local community and clearly the proposal would be providing a 'local community benefit'. The site is centrally located within the village, being situated within the car park of the doctors' surgery. The village hall is adjacent, whilst other services and facilities are a short walk away on Fore Street, which can be reached via a footpath from the site. The proposal is accessible and clearly well-related to the settlement. Accordingly the proposal is considered to be compliant with Policy DM25 and overall a net gain for the settlement having taken account of the loss of the existing toilet block.

### **2. Design**

Policy DM2 requires new development to be of high quality, including making an 'efficient and effective use of the site', a 'positive contribution to local character', the 'creation of safe and accessible places', 'visually attractive places...that are well integrated...and do not have an unacceptably adverse impact on the privacy and amenity of the proposed or neighbouring properties and uses.' The proposal requires the demolition of the existing toilet block, with the new building being located on a larger footprint. The new footprint uses most of the available space of the plot, which would require the removal of two trees, one to the rear and one the side of the building.

Discussions with the Council's tree officer have confirmed that the larger tree to the rear is an elm, and though of merit, has an unknown lifespan given its susceptibility to disease, and therefore its loss is acceptable. The larger footprint of the building will occupy the majority of the plot, and is considered to be an efficient use of a relatively small space.

The site borders the Silverton Conservation Area on its north and west boundaries. Discussions with the Council's Conservation Officer has indicated that the proposal amounts to minimal change and no harm to the heritage asset or its setting and is therefore compliant with Policy DM27. The proposed materials are rendered walls and a concrete tiled roof which are evident in other buildings adjoining the site and are considered appropriate in this location. The building proposes to have four windows on the principal elevation (facing south), and a further single window on each of the north, east and west elevations. The south facing windows will allow light into the principal rooms (the day room and treatment room). A small window on the west elevation serves a toilet, and another on the north serves a kitchen. The south and east facing windows look out over the car park and to the doctors' surgery beyond. They do not give rise to any concerns about privacy. The windows on the north and west elevation have the potential to offer glimpsed views into the gardens of neighbouring properties, particularly given the proximity of the building to the boundary. As such it is considered that two windows be obscure glazed to protect the privacy of both the occupants and those living in the neighbouring properties.

Regarding the creation of safe and accessible places the proposal is at the far end of the car park, and only a limited number of vehicles would pass the front of the building to access the small parking area outside the surgery. Though there is no footpath through the car park connecting it to the surgery or proposed day

centre the potential for conflict between vehicles and pedestrians is limited by the small number of vehicles which would pass the entrance to the centre. Some footpath provision does exist immediately to the west of the site connecting it to Fore Street. Overall, the proposal is considered to meet the requirements of Policy DM2.

### **3. Highways and parking**

Policy DM8 'parking' sets guideline standards for the quantity of parking provision which should accompany development dependent on the use type. For the size and type of development two parking spaces would need to be provided. However, the proposal is located adjacent to a public car park which is owned by Mid Devon District Council. The Housing Department has confirmed that the car park does not have capacity issues and therefore is likely to be able to accommodate the additional parking arising as a result of the development. As such it is considered that the requirements of Policy DM8 have been met. The Highway Authority has also stated that standing advice applies to this application. The proposal is within the north west corner of the car park which is served by an existing access off Wyndham Road. The existing junction has good visibility both to the north and south and is acceptable given the speeds associated with it being a residential street. No alterations to the highway are proposed as a result of the scheme whilst the existing adjacent footpath provision (as discussed) provides a direct link to other village services off Fore Street. Overall, the proposal is considered to be in accordance with standing advice having taken account of junction visibility, pedestrian and cycle movement and the Highway Authority's guidance on parking.

Finally it should be noted that the Council's Environmental Health Department has stated that the building has the potential for the presence of hazardous liquid or solid materials (including asbestos). As such they have recommended that a condition requiring the provision of a works plan and risk assessment be submitted for approval to the local planning authority in consultation with Environmental Health in advance of commencing demolition in order 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. This condition is proposed to be attached to the 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.
3. 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 to and approved in writing by the Local Planning Authority. 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 potentially hazardous materials should be assessed.
4. Before the development hereby permitted is first brought into its permitted use the windows on the north and west elevations shall be non-opening glazed with translucent glass, and be so retained.
5. No demolition 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.

## **REASONS FOR CONDITIONS**

1. In accordance with the provisions of Section 51 of the Planning and Compulsory Purchase Act 2004.
2. For the avoidance of doubt and in the interests of proper planning.
3. In the interests of public health and protection of the environment.
4. To safeguard the privacy of the occupants of the building and neighbouring properties in accordance with Policy DM13 of the Local Plan Part 3 (Development Management Policies).
5. To ensure that the proposed development does not prejudice the amenities of neighbouring properties.

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

The proposed development for the erection of a new day centre following demolition of public toilets is considered to be a positive proposal to increase the provision of community facilities within the village and is supportable in policy terms. The proposal is considered to have taken account of the local context through appropriate design and there are not considered to be any significant adverse impacts on the living conditions of occupants of nearby buildings which cannot be controlled via the imposition of a planning condition. Provision for car parking is available at the adjacent public car park, and no highway safety concerns are raised. Overall, the proposal is considered to comply with the following Policies: COR2 of the Mid Devon Core Strategy (Local Plan Part 1), DM2, DM8, DM25 and DM27 of the Local Plan Part 3 (Development Management Policies) and the National Planning Policy Framework.

**Application No. 16/00500/ADVERT**

**Plans List No. 3**

**Grid Ref:** 302045 : 107309

**Applicant:** Mid Devon District  
Council

**Location:** The Walronds 6 Fore  
Street Cullompton  
Devon

**Proposal:** Advertisement  
Consent to display 1  
freestanding Heritage  
Information panel

**Date Valid:** 7th April 2016



**Application No. 16/00500/ADVERT**

## **RECOMMENDATION**

Grant Advertisement Consent

## **PROPOSED DEVELOPMENT**

Advertisement consent to display 1 freestanding heritage information panel.

The Walronds is a Grade I listed building one of a group of high status listed buildings in the centre of Cullompton conservation area. The information panel is one of a series of heritage information panels developed for the town to raise awareness of its historic interest. The others have already been installed. The Walronds panel had to wait for completion of the restoration of the building and for negotiations with Devon County Highways to be completed.

The proposal is to locate a freestanding A1 size heritage information panel immediately in front of a blank section of boundary wall to the west side of the vehicular access to the property. The red bordered panel is mounted within a black painted frame on metal legs. The height of the top of the panel is 1.85m above pavement ground level with the metal legs set 0.45m into the ground. The panel includes information about the town's history and The Walronds.

## **APPLICANT'S SUPPORTING INFORMATION**

Details and photographs of proposal

## **PLANNING HISTORY**

See file

## **DEVELOPMENT PLAN POLICIES**

Town and Country Planning (Control of Advertisement) (England) Regulations 2007  
National Planning Policy Framework

## **CONSULTATIONS**

**HIGHWAY AUTHORITY** - 17th May 2016 - No comments

**CULLOMPTON TOWN COUNCIL** - 29th April 2016 - Recommend grant permission

## **REPRESENTATIONS**

None

## **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

Advertisement consent applications are determined on the basis of a limited range of factors. Local Planning Authorities control the display of adverts in the interest of amenity and public safety, taking into account the development plans and the relevant factors unless the advert is harmful to the amenity or public safety, consent cannot be refused.

The key issues in determination of this application are:

### **1. The effect on public amenity, the setting of The Walronds and The Merchant's House, and the character and appearance of the Conservation Area**

The location for the panel has been chosen to avoid any detrimental impact on the setting of The Walronds and the adjacent Grade II\* listed building of The Merchant's House. The panel is considered to be a beneficial addition to the character, appearance and understanding of the Conservation Area. The panel is considered to be beneficial to public amenity as it provides information on the building and is one of a series to inform the public about the historic interest of the town.

The Conservation Officer has commented that this is an acceptable proposal being part of a wider scheme to raise awareness of the town's historic interest and heritage to the benefit of the vitality and viability of the town centre. Its impact upon amenity is therefore acceptable.

### **2. The effect on public safety**

The panel is not considered to have a detrimental impact on highway safety as it is set back from the road and at a low level. The Highway Authority has not commented on the application. It will not affect the safety of road users, nor obscure any traffic signs. In public safety terms as set out in the Control of Advertisement Regulations 2007 it is considered acceptable.

## **CONDITIONS**

1.
  - i) No advertisement is to be displayed without the permission of the owner of the site or any other person with an interest in the site entitled to grant permission.
  - ii) No advertisement shall be sited or displayed so as to:
    - (a) endanger persons using any highway, railway, waterway, dock, harbour or aerodrome (civil or military);
    - (b) obscure, or hinder the ready interpretation of, any traffic sign, railway signal or aid to navigation by water or air; or
    - (c) hinder the operation of any device used for the purpose of security or surveillance or for measuring the speed of any vehicle.
  - iii) Any advertisement displayed, and any site used for the display of advertisements, shall be maintained in a condition that does not impair the visual amenity of the site.
  - iv) Any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a condition that does not endanger the public.
  - v) Where an advertisement is required under these Regulations to be removed, the site shall be left in a condition that does not endanger the public or impair visual amenity.



## **REASONS FOR CONDITIONS**

1. In accordance with the provisions of the Town and Country Planning (Control of advertisement) (England) Regulations 2007.

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

The advertisement as one of a series is considered to have a positive impact on visual public amenity, the setting of the adjacent Grade I and II\* listed buildings, and the character and appearance of the Conservation Area. The proposal is not considered to have a detrimental impact on public safety. The proposal is considered to be in accordance with the Town and Country Planning (Control of Advertisement) (England) Regulations 2007 and the National Planning Policy Framework.

**Application No. 16/00525/FULL**

**Plans List No. 4**

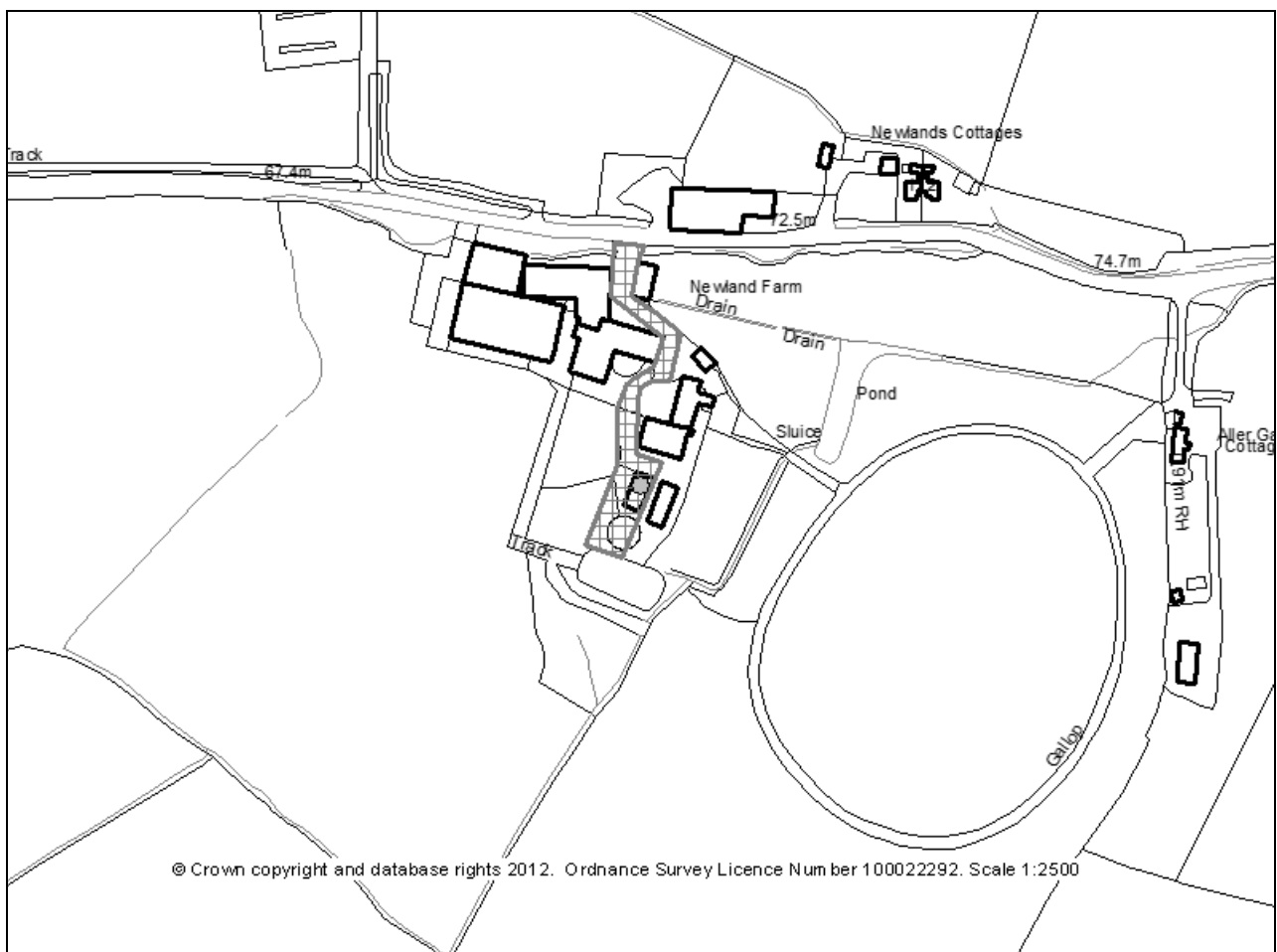
**Grid Ref:** 304346 : 107083

**Applicant:** Mr J Persey

**Location:** Newland Farm  
Cullompton Devon  
EX15 1QQ

**Proposal:** Conversion of former  
stables to form 1  
dwelling

**Date Valid:** 6th April 2016



## **Application No. 16/00525/FULL**

### **RECOMMENDATION**

Refuse permission.

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

1. To consider whether the proposal complies with Policy DM11 of the Local Plan Part 3 (Development Management Policies) Conversion of Rural Buildings.

### **PROPOSED DEVELOPMENT**

The proposal is for the conversion of former stables to form 1 dwelling at Newland Farm, Cullompton.

The site is located to the south of the A373 road between Cullompton and Honiton. The site has had previous recent permissions for the conversion of other stable buildings on the site to residential properties as referenced below in the planning history section. In particular the adjacent brick built stable block was granted planning permission in November 2015 for the conversion of stable to building to a dwelling with associated works. The current planning application seeks permission for the conversion of the adjacent rendered block built stable building 1.7 metres to the west of the 2015 approved stable conversion.

The application stable building is of a similar size to the 2015 approved building. The application building is a block built stable building which has been recently rendered since the adjacent 2015 application. The building has 4 stable door openings on each of the sides of the building (south east and north west elevations) with no existing openings on the gable ends (south west and north east elevations). The stable doors as existing are of timber and the roof is of profile sheeting. The proposed materials are to include natural stained or painted timber window and door units and a natural slate roof. The proposed plans and design shows new window openings to be installed in the gable ends of the stable building with a large glazed section also shown on the north west gable end. The 4 stable doors on the south east elevation are to be blocked up and natural light will be from 4 proposed roof lights on the south east elevation roof slope. The existing vehicle access is to be utilised in the proposed development and parking has been shown on the submitted plans. An area of residential amenity area has been set out on the plans and is considered to be sufficient in size.

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

Site location plan, existing and proposed floor plans, existing and proposed roof plans, existing and proposed section plans, existing and proposed elevations plans, proposed site plans, photographs, flood risk assessment and surface water drainage strategy, ecological survey report, limited visual structural investigation report, foul drainage assessment form.

### **PLANNING HISTORY**

13/01460/FULL Conversion of redundant agricultural buildings to form 2 dwellings with associated works - REFUSE

14/01554/FULL Conversion of redundant agricultural buildings to form 2 dwellings with associated works - PERMIT

14/02066/PNCOU Prior notification for the change of use of agricultural buildings to 3 dwellings under Class MB(a) - PNP (Not Permitted Development)

15/01483/FULL Conversion of stable building to a dwelling with associated works - PERCON

## **DEVELOPMENT PLAN POLICIES**

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

COR9 - Access  
COR11 - Flooding  
COR18 - Countryside

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

DM2 - High quality design  
DM8 - Parking  
DM11 - Conversion of rural buildings

## **CONSULTATIONS**

### **ENVIRONMENTAL HEALTH - 19th April 2016 –**

Contaminated Land - No objections

Air Quality - No objections

Drainage - No objections

Noise & other nuisances - No objections

Housing Standards - No objections

Licensing - No comments

Private Water Supplies - INFORMATIVE NOTE:

No record is held as being a private supply. However, if a private water supply is to be used together with any other associated property, the supply would become a small private supply, unless a commercial element is involved when it would become a commercial supply. In either circumstance would be subject to the Private Water Supply Regulations 2009. As such a private water risk assessment and sampling regime will need to be undertaken by this Authority prior to any residential or commercial use. Please contact Public Health at Mid Devon District Council to discuss on completion of the proposal.

If mains water is to be used in connection with this proposal, I would have no comment.

Health and Safety - I have no objections to this proposal.

Informative: There is a foreseeable risk of asbestos being present in these types of structure. A

Refurbishment and Demolition Survey following HSG264 available at

<http://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.

### **NATURAL ENGLAND - 20th April 2016**

No comments.

### **HIGHWAY AUTHORITY - 13th April 2016**

standing advice applies

<http://www.devon.gov.uk/highways-standingadvice.pdf>

### **ENVIRONMENT AGENCY - 11th April 2016 - No objections**

**CULLOMPTON TOWN COUNCIL - 29th April 2016 - Recommend grant permission. Recommend a condition that the new dwelling is not sold as a separate entity.**

## **REPRESENTATIONS**

None

## **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 building complies with the criteria of policy DM11 (conversion of rural buildings)**
- 3. Access and parking**
- 4. Drainage and flood risk**
- 5. Impact on residential amenity**
- 6. S106 and air quality contributions**

### **1. The principle of development on the site**

The National Planning Policy Framework states that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Moreover, new isolated homes in the countryside should be avoided unless there are special circumstances such as where development would re-use redundant or disused building and lead to an enhancement to the immediate setting. DM11 of the Local Plan Part 3 (Development Management Policies) further deals with the conversion of rural buildings, stating that the conversion of redundant or disused rural buildings of substantial and permanent construction which positively contribute to an area's rural character for residential use will be permitted where specific criteria are met. It is not considered that the application building positively contributes to the area's rural character for residential use for reasons detailed in the following section of this report. It is therefore considered that the building fails to meet the policy requirements of policy DM11.

### **2. Whether the building complies with the criteria of policy DM11 (conversion of rural buildings)**

Policy DM11 of the Local Plan Part 3 (Development Management Policies) states that disused rural buildings of a substantial and permanent construction which positively contribute to an area's rural character are acceptable in principle for conversion to other uses, including into dwellinghouses. The first issue with the application building is that it is not considered to be a building which positively contributes to an area's rural character. The subject building is a block built stable which has been recently rendered, with a profile sheet roof and timber and metal window and door units. As mentioned above, the overarching requirement of policy DM11 is not considered to be sufficiently met.

The site is accessed via an existing vehicular access from Newlands Farm onto the A373, which in this location is subject to the national speed limit. The applicant has ownership of the hedges either side of this access. Provided these hedges are suitably maintained the visibility at the junction is considered to be sufficient so as to accommodate the additional traffic arising from the proposed development. As such the application is considered to be in accordance with criteria (a) of DM11 of the Local Plan Part 3 (Development Management Policies) which requires a suitable access to be in place. Moreover, the local road network is suitable to support any additional traffic movements occurring as a result of the proposed use; it is considered that the number of additional movements created and any resultant impacts are negligible.

The limited visual structural investigation report submitted with this application confirms that subject to a number of identified minor defects being remedied, the barn is in reasonable condition, and is suitable for the proposed conversion. As such the application is considered to be in accordance with criteria (b) of DM11 of the Local Plan Part 3 (Development Management Policies) which requires that the building can be converted without significant alteration, extension or rebuilding.

The building is not considered to hold any particular character in terms of its impact on its surroundings or its contribution to the wider rural area. Other buildings which have been converted under policy DM11 on the site are brick built stable blocks with some architectural interest in terms of the curved brick arch features above the window and door openings. The subject application building is a recently rendered block stable building which is not of traditional character or materials and is very basic in design. The 4 stable doors on the south east and north west elevations are to be either blocked in or replaced with glazing or single residential doors in the proposed conversion works.

It is considered that there is an uneasy separation distance between the two linear stable buildings (just 1.7 metres between the application building and the adjacent stable building which has been converted to a dwelling). For this reason, the stable doors on the south east elevation are to be blocked up to reduce the impacts on the living conditions of occupants of the neighbouring residential property. This will further detract from the character and appearance of the application building by removing existing openings. New window openings are proposed on the south west and north east gable ends of the building (no openings current exist in these elevations), and a large glazed section is also proposed on the south west gable end. New rooflights are proposed on both roof slopes to allow light into the property and for ventilation purposes. The proposed new openings will create a very different character and appearance to the building. In your officers' opinion, the building is not considered to reflect the local vernacular and does not complement the other buildings on the site which do have elements of character and are suitable to be converted for residential use. The blocked openings on the south east elevation will result in a blank and unsatisfactory appearance. The measures needed to safeguard privacy (the blocking of openings along 1 whole elevation) further illustrates the uncomfortable and corrupt relationship with the adjacent dwelling.

It is considered that the appearance of the proposed dwelling when converted would be very different from the existing with substantial works to convert the building to a residential property. It is considered that not only does the subject building lack character in its unconverted state, the little character it does have is not retained in the conversion, and therefore the proposal does not comply with the policy requirements of criteria (c) of DM11 which seek to retain the original character of application building and its surroundings.

Submitted in support of this application is an ecological survey report. The report includes the results of an emergence bat survey which covers the 5 barns/stables on the site. The survey concluded that mitigation measures could be employed to provide alternative bat roosting provision in the roof space another barn on the site to minimise any potential disturbance to acceptable levels and maintain the favourable conservation status of species present. These measures include carrying out works under an ecological watching brief, excluding bats from any crevices in the walls and providing alternative roosting provision. It is recommended that all trees and shrubs linking the buildings to areas of similar habitats in the surrounding landscape be retained and maintained so that bats are able to come and go from the buildings by using these areas as cover. The proposed application is therefore considered to comply with criteria (d) of DM11 of the Local Plan Part 3 (Development Management Policies) which requires that the development will retain any nature conservation interest associated with the site or building, while providing net gains in biodiversity where possible.

### **3. Access and parking**

The existing vehicular site access is to be utilised from the A373 road. The applicant has ownership of the hedges either side of this access, and provided they are suitably maintained the visibility at the junction is considered to be sufficient so as to accommodate the additional traffic arising from the proposed development. As such the application is considered to be in accordance with COR9 of the Mid Devon Core Strategy (Local Plan Part 1), and DM2 and DM11 of the Local Plan Part 3 (Development Management Policies). It is considered that the local road network is suitable to support any additional traffic movements occurring as a result of the proposed use, and the number of additional movements created and any resultant impacts are negligible.

Policy DM8 of the Local Plan Part 3 (Development Management Policies) 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 site has had recent permissions for 3 other dwellings bringing the parking spaces required for the whole site up to 8 car parking spaces. The turning and manoeuvring area between the dwellings and parking spaces is considered to be very tight and there may be some conflict between occupiers of the individual dwellings. However, due to the length of the access drive, it is not considered that there is a high potential for vehicles leaving the site in reverse gear, as they are more likely to turn within the limited space than reverse the length of the drive.

Whilst the layout is tight with regard to parking and turning, the number of parking spaces to be provided is policy compliant and it is not considered that the proposal warrants refusal in this respect. .

#### **4. Drainage and flood risk**

A flood risk assessment and surface water drainage strategy has been submitted alongside the application. Part of the site lies within Flood Zone 3 which is defined as land assessed as having a 1 in 100 or greater annual probability of river flooding. Flood mitigation methods are to include designing the dwelling to be flood resilient. Consideration is to be taken of the use of water resistant materials. The proposal is for the conversion and change of use of an existing redundant building to dwelling - no additional hard surfaced areas are to be created within the application site. The assessment also recognises that there are no known issues with surface water from the development site at present and it is proposed that surface water from the development will be discharged naturally to ground through the use of sub-surface soakaways. As such the proposal is considered to comply with policy COR11 of the Mid Devon Core Strategy (Local Plan Part 1) and policy DM2 of the Local Plan Part 3 (Development Management Policies). The Environment Agency has been consulted on the application scheme and has confirmed that they have no objections to the proposal from the point of view of flood risk management.

#### **5. Impact on residential amenity**

There is a very small separation distance between the application building and the recently adjacent brick built stable building recently approved for conversion (just 1.7 metres). It is considered that this arrangement is unfavourable in terms of living conditions, being in such close proximity with the principal windows in the approved building facing towards the application building. The application barn has no window openings proposed on the south east elevation due to the close, uneasy relationship, and this will reduce natural light and outlook for the kitchen, utility room and bathroom. These rooms will be served by 4 rooflights only, affecting the residential amenity of future occupants of the dwelling. However, the impact on residential amenity of the neighbouring residents and the amenity of future occupants of the building to be converted, are not as great as to warrant reasons for the refusal of the application.

During the planning process for the neighbouring converted stable building (ref: 15/01483/FULL) discussion was had as to what was going to happen to the adjacent block built stable (the current application building) which was located within the red development line of the previous application. It was confirmed at the time by the agent that the building was to be used for domestic storage incidental to the conversion of the brick stable building. It was therefore not considered necessary at the time to request that the block building was to be demolished or removed from the site.

#### **6. S106 and air quality contributions**

Public Open Space contribution: Development resulting in the creation of new dwellings leads to a cumulative demand for public open space and therefore policy AL/IN/3 of the Allocations and Infrastructure DPD requires such development to contribute toward the provision of POS. A financial contribution of £1250 toward the provision and funding of POS (the provision of under 5s play equipment at the CCA fields, Cullompton) has been made in accordance with this policy and the scale of charges set out in the relevant SPD.

Air Quality contribution: Development in or adjoining Cullompton will be required to mitigate its likely impact on air quality in the Cullompton Air Quality Management Area by contributing towards the cost of implementing the Cullompton Air Quality Action Plan in accordance with the Air Quality Supplementary Planning Document. A contribution of £5218 has been made in accordance with this policy towards the provision of public electric vehicle charging infrastructure in Cullompton and the scale of charges set out in the relevant SPD.

## **REASON FOR REFUSAL**

1. In the opinion of the Local Planning Authority, the application building is not considered to hold any particular character, architectural style, merit or design to make it worthy of conversion. In addition, the works required to safeguard the privacy of the occupiers of the adjacent dwelling (blocking up openings), would result in a substantial alteration to the appearance of the existing building and the loss of the little character that the existing building does have and result in an unsatisfactory appearance. The application scheme is therefore not considered to comply with the criteria set out in Policy DM11 of the Local Plan Part 3 (Development Management Policies) which requires rural buildings to be converted to positively contribute to an area's rural character.

Mrs Jenny Clifford  
Head of Planning and Regeneration



**DELEGATED APPLICATIONS AS AT - 26 May 2016**

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

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**PURPOSE OF REPORT**

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

**RECOMMENDATION**

That the report be noted.

**DETAILS OF DECISIONS**

DATE RECEIVED	DATE DETERMINED/ DECISION	REF NUMBER	APPLICANT PROPOSED DEVELOPMENT	PARISH/AREA
11.08.2015	26.05.2016 Permitted with Conditions to Discharge	15/01318/FULL	Mr Juan Amador Paschoe House Bow Change of Use of residential dwelling (C3) to hotel (C1), restaurant (A3) and bar (A4) and erection of a permanent marquee	Colebrooke 17
06.10.2015	16.05.2016 Grant permission	15/01637/FULL	Mr J Bending Land at NGR 286926 115154 (Opposite Fernlea Farm) Nomansland Erection of an agricultural worker's	Templeton 49

			dwelling	
20.10.2015	16.05.2016 Grant permission	15/01689/FULL	Mr W Callister Land and Buildings at NGR 271722 108144 (Yeo Valley View Farm) Installation of solar pv panels to south side of roof of former dairy building	Nymet Rowland 38
20.10.2015	16.05.2016 Grant permission	15/01690/LBC	Mr William Callister Land and Buildings at NGR 271722 108144 (Yeo Valley View Farm) Listed Building Consent for the installation of solar pv panels to south side roof of former dairy building	Nymet Rowland 38
04.12.2015	24.05.2016 Grant permission	15/01930/FULL	Mr & Mrs J Kittow Silverhay Farm Silverton Erection of an agricultural farm manager's dwelling	Silverton 45
12.01.2016	05.05.2016 Grant permission	16/00062/FULL	Mrs Catherine Tapp Park Hill Veterinary Clinic Limited 31 Park Hill Siting of portakabin and associated works	Tiverton 52
13.01.2016	25.05.2016 Grant permission	16/00076/FULL	Mr B Denning Lower Sainthill Farm Kentisbeare Erection of two-storey extension	Kentisbeare 32
13.01.2016	25.05.2016 Grant permission	16/00077/LBC	Mr B Denning Lower Sainthill Farm Kentisbeare Listed Building Consent for erection of extension and other internal and external alterations	Kentisbeare 32

11.02.2016	20.05.2016 Grant permission	16/00235/FULL	Messrs Paul & Ricky Tidborough Land Adjacent to Koggala Gables Road Erection of a dwelling	Willand 59
17.02.2016	29.04.2016 Permitted with Conditions to Discharge	16/00262/FULL	Mr B Dalzell 9 Fore Street Cullompton Erection of dwelling and alterations to existing garage	Cullompton 21
17.02.2016	28.04.2016 Refuse permission	16/00266/FULL	Mr R Payne Culm Valley Inn Culmstock Retention of outside barbeque and pergola over existing beer garden	Culmstock 22
22.02.2016	12.05.2016 Permitted with Conditions to Discharge	16/00283/FULL	Mr S Ripley Old Orchard Threshers Erection of dwelling and formation of new access	Crediton Town 18
24.02.2016	05.05.2016 Development Acceptance	16/00294/PNCOU	Mr L Tidball Land and Buildings at NGR 290388 115647 (Higher Ingrams Farm) Loxbeare Prior notification for the change of use of an agricultural building to a dwelling under Class Q	Loxbeare 34
26.02.2016	09.05.2016 Grant permission	16/00310/ADVERT	Mr Wayne Gale Hospiscare 27 Gold Street Advertisement consent to display 1 fascia sign and 1 hanging sign	Tiverton 52
29.02.2016	05.05.2016 Grant permission	16/00315/TPO	Mr Galloway 7 Pine Close Tiverton Application to carry out works to 1 Oak, 1 Tulip and fell 2 Cypress tree	Tiverton 52

			protected by Tree Preservation Orders 02/00001/TPO and 73/00016/TPO	
29.02.2016	29.04.2016 Refuse permission	16/00318/HOUSE	Mr & Mrs G Floyd Jaspers Green Uplozman Erection of extension and conversion of existing garage to annexe	Uplozman 54
02.03.2016	09.05.2016 Grant permission	16/00321/HOUSE	Mr P Lester 8 Gornhay Orchard Tiverton Erection of two-storey extension	Tiverton 52
02.03.2016	12.05.2016 Permitted with Conditions to Discharge	16/00322/LBC	Mr D Llambias Huntsham Court Huntsham Listed Building Consent for internal and external alterations	Huntsham 30
02.03.2016	13.05.2016 Permitted with Conditions to Discharge	16/00326/LBC	Mr & Mrs M Donald Uplozman House Uplozman Listed Building Consent for internal alterations and replacement of window with door on rear elevation	Uplozman 54
03.03.2016	09.05.2016 Grant permission	16/00346/FULL	Mrs C O'Sullivan Grannys Meadow Colebrooke Removal of Condition (3) of planning permission 06/00058/FULL to allow the continued and permanent use of annexe	Colebrooke 17
04.03.2016	28.04.2016 Grant permission	16/00334/HOUSE	Mr & Mrs R Winyard 15 The Oaks Yeoford Erection of an extension	Crediton Hamlets 19
04.03.2016	16.05.2016 Grant permission	16/00338/HOUSE	Mr N Shute 1 Old Butterleigh Road Silverton	Silverton 45

			Installation of 2 pitched roof dormer windows and erection of extension to rear	
04.03.2016	28.04.2016 Grant permission	16/00341/FULL	Serious Waste Management Ltd Waterloo Cross Inn Uffculme Installation of replacement sewage treatment plant	Burlescombe 06
07.03.2016	23.05.2016 Grant permission	16/00355/FULL	Mr John Quicke Land and Buildings at NGR 286908 97889 Five Elms Lane Erection of a woodchip storage building	Newton St Cyres 37
07.03.2016	03.05.2016 Development Acceptance	16/00356/PNCOU	Mrs R Partridge Newhayes Sampford Peverell Prior notification for the change of use of an agricultural building to a dwelling under Class Q	Halberton 25
08.03.2016	04.05.2016 Not Permitted Development	16/00357/PNCOU	Mr D Caryer Land and Buildings at NGR 283737 103454 (The Barn, Riverside Farm) Prior notification for the change of use of an agricultural building to a dwelling under Class Q	Upton Hellions 55
08.03.2016	28.04.2016 Grant permission	16/00364/FULL	Mr B H Spiller Land at NGR 313028 116673 Blackdown Hill Road Erection of an agricultural livestock/fodder building	Hemyock 26
08.03.2016	28.04.2016 Grant permission	16/00374/HOUSE	Mrs N Dash West Pitt Farm Tiverton Erection of two-storey rear extension	Halberton 25

			(Revised Scheme)	
09.03.2016	04.05.2016 Grant permission	16/00368/FULL	Miss K Kenlock Land at NGR 304875 112638 (Mountstephen House) Uffculme Formation of vehicular field access	Halberton 25
09.03.2016	05.05.2016 Refuse permission	16/00371/TPO	Mr James Land and Buildings at NGR 296606 112858 (Adjacent 1 Redlands) Blundells Road Application to reduce 1 Oak tree by 20-25% and cut back overhanging branch by 5-6m protected by Tree Preservation Order 83/00002/TPO	Tiverton 52
09.03.2016	12.05.2016 Permitted with Conditions to Discharge	16/00376/FULL	Ms P Hawkes & F Derbyshire Land at NGR 294973 103138 Near Great Pitt Granary Change of use of land to mixed use for agriculture and dog training, erection of a building for dog training facilities and agricultural storage, formation of new parking area and alterations to vehicular access	Silverton 45
09.03.2016	28.04.2016 Grant permission	16/00378/HOUSE	Mrs S Smith Sun Rising Farm Ashley Erection of single storey rear extension	Tiverton 52
10.03.2016	05.05.2016 Grant permission	16/00379/HOUSE	Mrs Clare Dalley Land at NGR 296005 113661 (Rear 68 Pinnex Moor Road) Erection of a shed and greenhouse	Tiverton 52

10.03.2016	16.05.2016 Grant permission	16/00387/HOUSE	Mr J Cavender 20 Spruce Park Crediton Erection of single storey rear extension	Crediton Town 18
11.03.2016	20.05.2016 Permitted with Conditions to Discharge	16/00390/FULL	Mr S Pullar Land and Buildings at NGR 312989 112340 (The Barn) Lickham Bottom Conversion of agricultural building to single dwelling	Hemyock 26
11.03.2016	12.05.2016 Grant permission	16/00392/FULL	Mr S Flaws Old Bartows Bartows Causeway Change of use of former day centre to single residential dwelling	Tiverton 52
15.03.2016	10.05.2016 Permitted with Conditions to Discharge	16/00395/HOUSE	Mr William Cicognani 9 Somerville Close Willand Erection of extension	Willand 59
15.03.2016	10.05.2016 Grant permission	16/00397/HOUSE	Mr J Cox 17 The Avenue Tiverton Erection of a domestic workshop/shed storage building	Tiverton 52
15.03.2016	10.05.2016 Refuse permission	16/00398/HOUSE	Mr N J Hobbs 59 Boobery Sampford Peverell Erection of two-storey extension, formation of access and provision of hardstanding for the parking of vehicles	Sampford Peverell 42
15.03.2016	24.05.2016 Grant permission	16/00402/CLU	Mr Wallace Building at NGR 315117 116644 (Hill Farm) Clayhidon Certificate of Lawfulness for existing	Clayhidon 15

			residential dwelling and associated garden for a period in excess of 4 years	
16.03.2016	17.05.2016 Refuse permission	16/00406/OUT	London & Devonshire Trust Land at NGR 303818 111567 Muxbeare Lane Outline for the erection of up to 5 dwellings and associated access	Halberton 25
17.03.2016	11.05.2016 Refuse permission	16/00411/FULL	Mr B Hunt Agricultural Buildings at 288946 97676 (Ford Farm) Newton St Cyres Removal of Condition (7) of planning permission 07/00352/FULL to allow the office/workshop to be used as a residential annexe	Newton St Cyres 37
17.03.2016	28.04.2016 Grant permission	16/00414/HOUSE	Mr G Mannion-Butler Langley Hemyock Erection of an extension	Hemyock 26
17.03.2016	17.05.2016 Permitted with Conditions to Discharge	16/00416/FULL	Mr M Tripp Land and Buildings at NGR 276576 94070 (Lower Mounson) Road from Lewdon Cross to Four Ways Cross Formation of new access and track	Cheriton Bishop 11
17.03.2016	16.05.2016 Grant permission	16/00420/LBC	Mr R Flatt Golly Cottage The Bury Listed Building Consent for erection of sunroom following demolition of existing lean-to	Thorverton 51
17.03.2016	20.05.2016 Permitted with Conditions to	16/00421/FULL	Mrs Sarah Miller Land at NGR 283186 110480 (Buckford Field)	Puddington 41



	Discharge		Change of use of land to equestrian, erection of stables and widening of existing access	
18.03.2016	12.05.2016 Permitted with Conditions to Discharge	16/00417/HOUSE	Mr & Mrs T Pales 1 Poundsland Cottages Silverton Erection of first floor extension	Silverton 45
18.03.2016	28.04.2016 Grant permission	16/00422/HOUSE	Mr & Mrs Gordon Windwhistle Willand Road Erection of single storey rear extension	Cullompton 21
18.03.2016	16.05.2016 Grant permission	16/00425/TPO	Mr Silk Quarrenden Bolham Application to reduce Field Maple protected by Tree Preservation Order 92/00002/TPO by up to 3m, dismantle 1 group of Goat Willows, reduce 1 Conifer by 3m, and reduce remainder of hedge to approximately 1.8m, all within the Conservation Area	Tiverton 52
18.03.2016	16.05.2016 Grant permission	16/00426/FULL	Gerard Associates Ltd 44 West-Exe South Tiverton Change of use from Class D1 (Day Centre) to Class B1 (Office)	Tiverton 52
18.03.2016	16.05.2016 Grant permission	16/00427/CLP	Mr & Mrs Mervyn Kinsey 16 Broomhill Tiverton Certificate of lawfulness for the erection of a rear extension	Tiverton 52
21.03.2016	11.05.2016 Grant permission	16/00430/HOUSE	Mrs N Knight Camelot 23 St Georges View Erection of a porch and carport	Cullompton 21

21.03.2016	16.05.2016 Grant permission	16/00433/HOUSE	Mr A Southwick Pippins Calverleigh Erection of 2 single storey extensions	Loxbeare 34
21.03.2016	17.05.2016 Grant permission	16/00435/FULL	Mr D Hill Land at NGR 286935 111272 (West Ruckham) Pennymoor Erection of an agricultural storage building	Cruwys Morchard 20
21.03.2016	18.05.2016 Grant permission	16/00436/FULL	Mr G Moore Pugham Farm Westleigh Conversion of existing barn and outbuilding to a dwelling	Burlescombe 06
21.03.2016	18.05.2016 Grant permission	16/00438/HOUSE	Mr & Mrs A Saunders 3 Lockyer Crescent Tiverton Erection of single storey garden room extension	Tiverton 52
21.03.2016	12.05.2016 Grant permission	16/00442/OUT	Mr B Smeeton Land at NGR 295316124977 (Whitehall Farm) Outline for the erection of a holiday let/workshop/therapy room	Morebath 36
21.03.2016	16.05.2016 Grant permission	16/00447/CLP	Mr R Booth 22 Forcefield Road Cullompton Proposed single storey rear extension	Cullompton 21
22.03.2016	18.05.2016 Grant permission	16/00445/FULL	Mr M Phillips Age UK Mid Devon Haven Centre Erection of single storey extensions	Tiverton 52

22.03.2016	16.05.2016 Permitted with Conditions to Discharge	16/00446/HOUSE	Mr & Mrs R Sloggett The Coach House Holme Place Erection of extensions	Oakford 39
22.03.2016	06.05.2016 Grant permission	16/00448/FULL	Mr M Russell Rear of The Sticks Zeal Monachorum Retention of change of use of garage to astronomical observatory with domed roof (Revised scheme)	Zeal Monachorum 61
22.03.2016	18.05.2016 Permitted with Conditions to Discharge	16/00454/HOUSE	Mr & Mrs Mullen Garden Close Western Road Formation of new access and turning area and installation of new window at second floor level	Crediton Town 18
23.03.2016	10.05.2016 Grant permission	16/00449/FULL	Mr P Yelland & Ms V Platt Land and Buildings at NGR 308716 111131(Rosemoor Engineering) Ashill Change of Use from agricultural storage to commercial storage and light industrial	Uffculme 53
23.03.2016	28.04.2016 Permitted Development	16/00450/PNFG	Mr J Stewart Bremridge Farm Shillingford Prior notification for the formation of a track for the purposes of forestry	Bampton 01
23.03.2016	17.05.2016 Grant permission	16/00460/FULL	Miss V Denner Land at NGR 288628 106442 (Stockadon Farm) Cheriton Fitzpaine Change of use of agricultural land to allow the siting of a shepherd's hut for tourism	Cheriton Fitzpaine 12

23.03.2016	16.05.2016 Grant permission	16/00468/HOUSE	Mr R Horwood Hillside Deymans Hill Erection of 2 storey side extension and creation of parking area	Tiverton 52
23.03.2016	11.05.2016 Grant permission	16/00469/HOUSE	Mr David Roberts 14 Britton Close Halberton Erection of a 2 storey extension	Halberton 25
30.03.2016	23.05.2016 Grant permission	16/00487/LBC	Mrs S Searle The Oak Room 2C St Peter Street Listed Building Consent for the removal of 4 side pews	Tiverton 52
30.03.2016	20.05.2016 Grant permission	16/00498/HOUSE	Mr & Mrs J Shaw Prospect House Kentisbeare Erection of detached garage	Kentisbeare 32
31.03.2016	12.05.2016 Grant permission	16/00499/HOUSE	Mr M Lowman 23 Brewin Road Tiverton Erection of a two storey side extension and single storey extension to the front	Tiverton 52
31.03.2016	25.05.2016 Grant permission	16/00503/HOUSE	Mr & Mrs Elliott Hatherlands Updown Erection of front and rear extensions (Revised Scheme)	Updown 54
31.03.2016	25.05.2016 Grant permission	16/00510/CLP	Mr & Mrs Soundy Homefield Tiverton Certificate of Lawfulness for the proposed conversion of loft	Tiverton 52
01.04.2016	11.05.2016 Development Acceptance	16/00491/PNHH	Mrs Joan Hill 1 Heathall Cottages Knowle Prior Notification for the erection of an	Cullompton 21

			extension, extending 3.95m to the rear, maximum height of 3.44m, eaves height of 2.50m	
01.04.2016	11.05.2016 Development Acceptance	16/00493/PNHH	Mr Ian Parsons 7 Robin Close Cullompton Prior Notification for the erection of an extension, extending 4.0 to the rear, maximum height of 3.0m, eaves height of 3.0m	Cullompton 21
04.04.2016	28.04.2016 Development Acceptance	16/00494/PNFG	Mrs S Dalton Champles Wood and The Clift Stoodleigh Priot Notification for the erection of a forestry storage shed	Stoodleigh 48
08.04.2016	20.05.2016 No Objection	16/00541/CAT	Mrs Lisa Moran Withy Cottage Canal Hill Notification of intention to carry out works to 1 pear tree and 1 hawthorn tree within a conservation area	Tiverton 52
08.04.2016	23.05.2016 Grant permission	16/00548/CLP	Mr & Mrs Martin Seajaize Morchard Road Certificate of Lawfulness for the proposed erection of a single storey extension to rear	Down St Mary 23
12.04.2016	10.05.2016 Application Part Granted/Part Refused	15/00011/FULL/NMA	Mr J Sanders The Old Forge (Adjacent To Hill View Farm) Erection of dwelling following demolition of existing partially demolished barns - Non-Material Amendment for additional velux roof lights to rear, a single velux rooflight	Sandford 43

			to front, lean-to at rear to be clad in vertical timber cladding, main portion of dwelling to be natural stone and window in lean-to to be amended to a door	
14.04.2016	23.05.2016 Grant permission	16/00576/HOUSE	Mr I Smith Glendower Kennerleigh Erection of conservatory	Kennerleigh 31

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Background Papers:                      Contained in application files referred to.

## 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	1	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	DEL	
2	7	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	
3	10	09/06/2016	16/00352/MFUL	Construction of a new two storey school on existing school grounds, with associated landscaping works and demolition of existing school buildings	Castle Primary School Barrington Street Tiverton Devon EX16 6QR	Mr Kristian Evely	COMM	COMM
	15	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
	44	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
6	102	24/09/2014	14/00881/MOUT	Outline for a mixed use development comprising up to 700 dwellings, 22,000 square metres of B1/B8 employment land, care home, primary school and neighbourhood centre with associated access including a left in left out junction on the westbound A361 and access and egress onto Blundells Road	Land East of Tiverton, South of A361, and Both North and South of Blundells Road Uplowman Road Tiverton Devon	Mr Simon Trafford	COMM	COMM
7	108	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

<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	161	16/07/2013	13/00525/MFUL	Application to replace extant planning permission 09/01870/MFUL (to extend time limit). A mixed development of 13 open market eco-houses and 6 affordable eco-houses; new access and estate road; additional car parking facilities for the Village Hall; closure of the existing Parish Hall Car Park entrance; provision of a children's play area for the Parish Hall; highway improvements to Fanny's Lane; footpath link to Snows and Meadowside Road (Revised Scheme)	Land at NGR 282973 102485 (East of Oxford Terrace) Fanny's Lane Sandford Devon	Mr Simon Trafford	COMM	COMM		



## LIST OF APPEAL DECISIONS FROM 26<sup>TH</sup> APRIL TO 23<sup>RD</sup> MAY 2016

Application No	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
15/00617/FULL	Erection of a dwelling	Land and Buildings at NGR 295769 122231(R/O 14 Brook Street) Brook Street Bampton Devon	Refuse permission	Delegated Decision	Refuse permission	Written Representations	Appeal Dismissed

Application No	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
<b>Summary of Inspectors Comments</b>							
<p>Proposed erection of single detached 'underground' dwelling.</p> <p>The main issues are:-</p> <ol style="list-style-type: none"> <li>1 The effect of the proposal on the living conditions of the occupiers of nearby properties, having particular regard to loss of privacy;</li> <li>2 The effect of the proposed development on the character and appearance of the conservation area and on the setting of nearby listed buildings;</li> <li>3 Whether sufficient information has been provided regarding drainage and flood risk matters; and</li> <li>4 Whether the proposal would provide an adequate amount of car parking provision.</li> </ol> <p>The proposed part underground dwelling is to be located to the rear of 12C Brook Street, the council consider the roof terrace to be 1.5m above existing ground level. This is not contested. Due to its elevated location this would create a considerable overlooking opportunity of neighbouring gardens. In addition the proposal is in close proximity to Webbers Court with clear views into the front windows, therefore a significant loss of privacy.</p> <p>A condition was suggested by the applicant that the terrace could only be used for maintenance. The issue with this is that this cannot be monitored. The inspector agreed, and would fail the test for a condition.</p> <p>Therefore the proposal would give rise to unacceptable loss of privacy for the occupiers of surrounding properties.</p> <p>Refusal was also on insufficient information in order to assess the impact on heritage assets.</p> <p>However the inspector considers sufficient information was submitted with the application along with further information supplied at the appeal.</p> <p>Both sides made reference to a previous appeal for a dwelling on the site. although different the inspector at the time considered the new dwelling would neither preserve nor enhance the character of the BCA.</p> <p>However the mainly subterranean design of the building would have little if any, inter-visibility between the proposed and the Grade I church. Therefore the proposed would preserve the setting.</p> <p>The solar panels, glass balustrade would introduce a visually prominent design and have a negative impact on the appearance of this part of the BCA, and represent a significant incursion. There are no public benefits to outweigh this harm with the proposal being in conflict with policy.</p> <p>The inspector concluded that as the council had no substantive information regarding drainage that the proposal would comply with policy in terms of flooding.</p> <p>Although not complying with DM8 1.7 parking spaces due to the central location, the fact that DCC highways did not object, and no parking survey had been undertaken by the council for the area. The Inspector concluded the proposal would provide an appropriate level of parking.</p> <p><b>Planning Balance and Conclusion</b></p> <p>In terms of benefit the proposal increases the supply of housing, along with innovative design incorporating some substantial features. However in terms of negative aspects, the proposal would unacceptably affect the living conditions of the occupiers of neighbouring properties in terms of loss of privacy, and it would give rise to less than substantial harm to the significance of designated heritage assets.</p> <p>in the context of paragraph 49 of the Framework, it is concluded that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits.</p>							
15/01397/FULL	Erection of 2 storey extension	15 Churchlands Bow Crediton Devon	Refuse permission	Delegated Decision	Refuse permission	Householder Appeal	Allow with Conditions

Application No	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
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EX17 6JF

### Summary of Inspectors Comments

The proposal is for a two storey side extension to a residential property. The property is one half of a pair of semi-detached properties.

The main issues were: a) the effect of the proposed extension on the character and appearance of the area; and b) the effect of the proposed extension on the living conditions of adjoining residential properties having regard to outlook and privacy.

The reasons the appeal was allowed is summarised below:

Character and appearance: although both pairs of semi-detached dwellings are of similar form and appearance, they do not possess a particularly strong sense of symmetry due to the differences in design, plot size and their slightly staggered siting. The estate contains a mix of development. The proposed extension would have a similar form and design to the host dwelling and would be set back slightly from the front and rear of the property with slightly lower roof line and as a result the proposal would appear subservient. By extending the host dwelling almost up to the boundary with No 13 the proposal would erode the existing gap in the street scene between the 2 pairs of semi-detached dwellings. The mix of development on the estate would not cause unacceptable harm to the character and appearance of the area.

Living conditions: Due to the slightly staggered siting of the host dwelling, the new extension would project slightly beyond the line of No 13's rear elevation, as a result notwithstanding its proximity the size and bulk of the proposal would not create an undue sense of enclosure or be unduly oppressive or overbearing when viewed from the rear windows of No 13 or its garden. The existing window in the first floor side elevation of No 13 faces the side wall of the host dwelling and appears to be obscure glazed. Therefore it already has a limited outlook. The first floor window in the side elevation of the proposal would also be obscure glazed.

15/01522/TPO	Application to dismantle 2 mature Silver Birch trees to ground level protected by Tree Preservation Order 02/00009/TPO	23A Higher Town Sampford Peverell Tiverton Devon EX16 7BR	Refuse consent	Delegated Decision	Refuse permission	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 inspector considered two main points

- 1 The effect on the Conservation Area and locality
- 2 If the reasons for removal are justifiable.

Higher Town is a narrow road which runs through Sampford Peverill of mixed dwellings and lightly treed. The property occupies a 90 degree bend, with a stone built wall. With the appeal trees on the right side of the gateway, behind the stone wall.

The trees provide the area with an attractive, sylvan character. The proposal would remove two large, attractive, healthy specimens and would result in the loss of an important landscape feature. As such the felling would cause harm to the character and appearance of the area.

The reason for removal is the damage being caused by the tree to the wall. There is no doubt that the trees are causing damage to the wall. The wall is capable of repaired without causing harm to the trees and allowing sufficient space for trunk growth. Therefore there is insufficient reason to remove the trees.

Conclusion on the 2 main issues are that the trees make a positive contribution, and are not ill suited to the location. Therefore the appeal is dismissed.

PLANNING COMMITTEE  
8<sup>th</sup> June 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.**

At the meeting of Planning Committee on 6<sup>th</sup> 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**

Daniel Rance 01884 234929

**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

**Project Name:** Proposed Anaerobic Digestion Plant at Red Linhay, Tiverton

**Project Ref:** 38071

**Report Title:** PBA Technical Report

**Date:** May 2016

	Name	Position	Signature	Date
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<b>For and on behalf of Peter Brett Associates LLP</b>				

Revision	Date	Description	Prepared	Reviewed	Approved
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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 13<sup>th</sup> 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 13<sup>th</sup> 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 LVIA's 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	
<b>Extent</b>	Application site area covers c. 1.7ha
<b>Position in relation to key views</b>	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	
<b>Form of development</b>	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).
<b>Prominence, dominance or conspicuousness</b>	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.
<b>Seasonal change</b>	Views of the application site may be more prevalent in the winter when screening vegetation is less substantial.
OTHER EFFECTS OF THE DEVELOPMENT	
<b>Noise, vibration, dust etc.</b>	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.
<b>Change to general character</b>	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.
<b>Changes to public access, use or amenity.</b>	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.
<b>Changes to land use</b>	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 13<sup>th</sup> 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 6<sup>th</sup> 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 85<sup>th</sup> 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

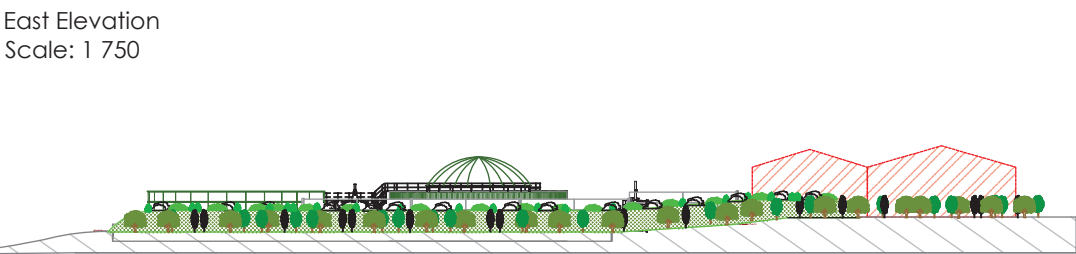
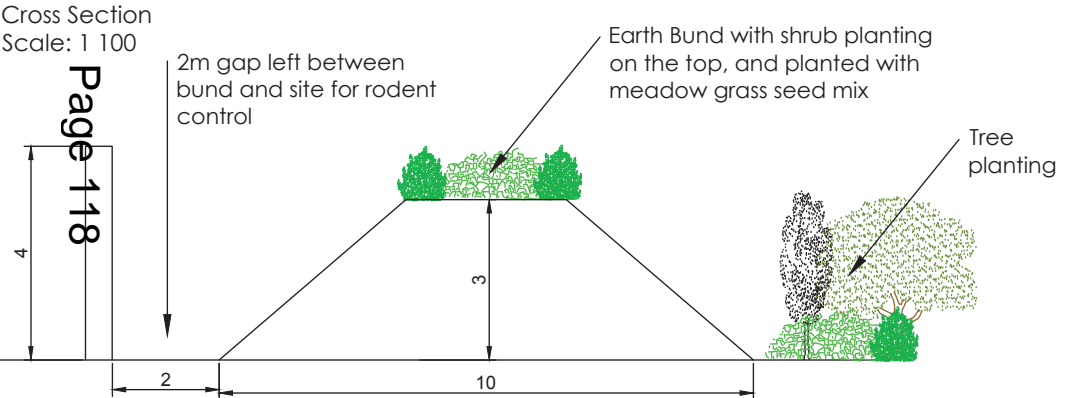
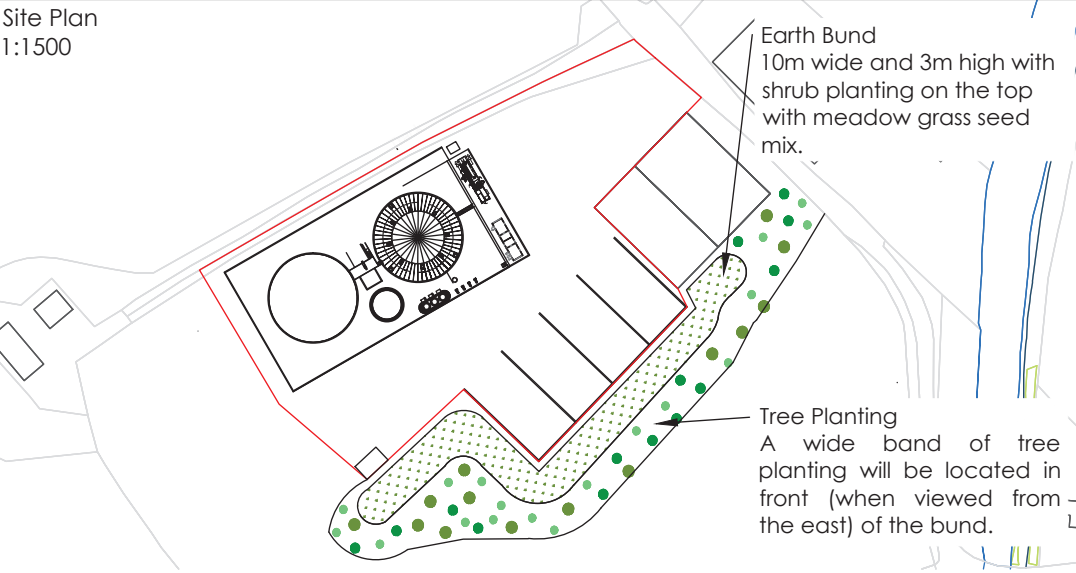
## Appendices



## Appendix A







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

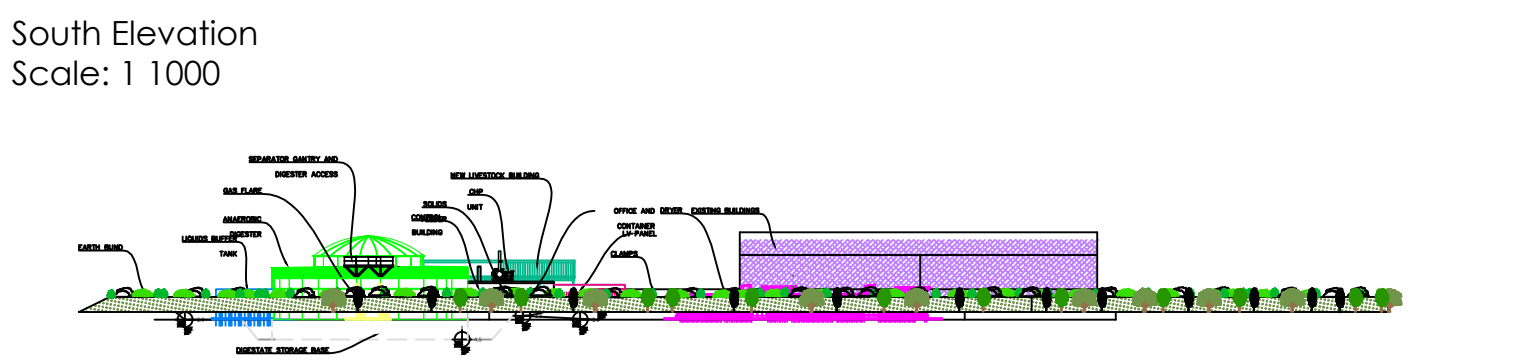
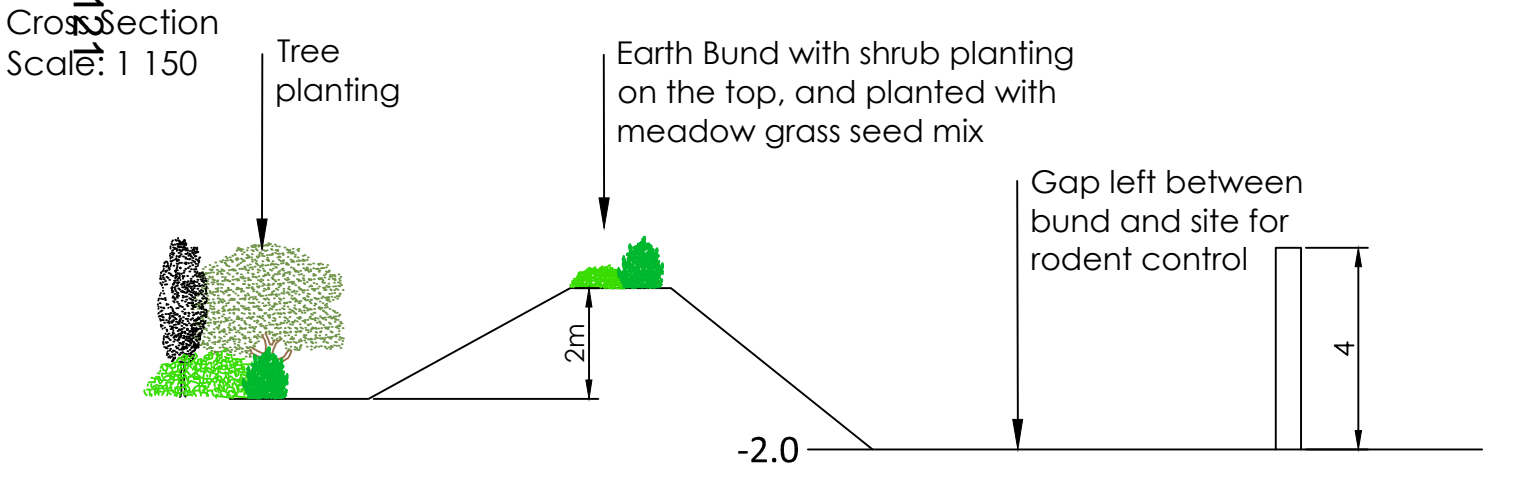
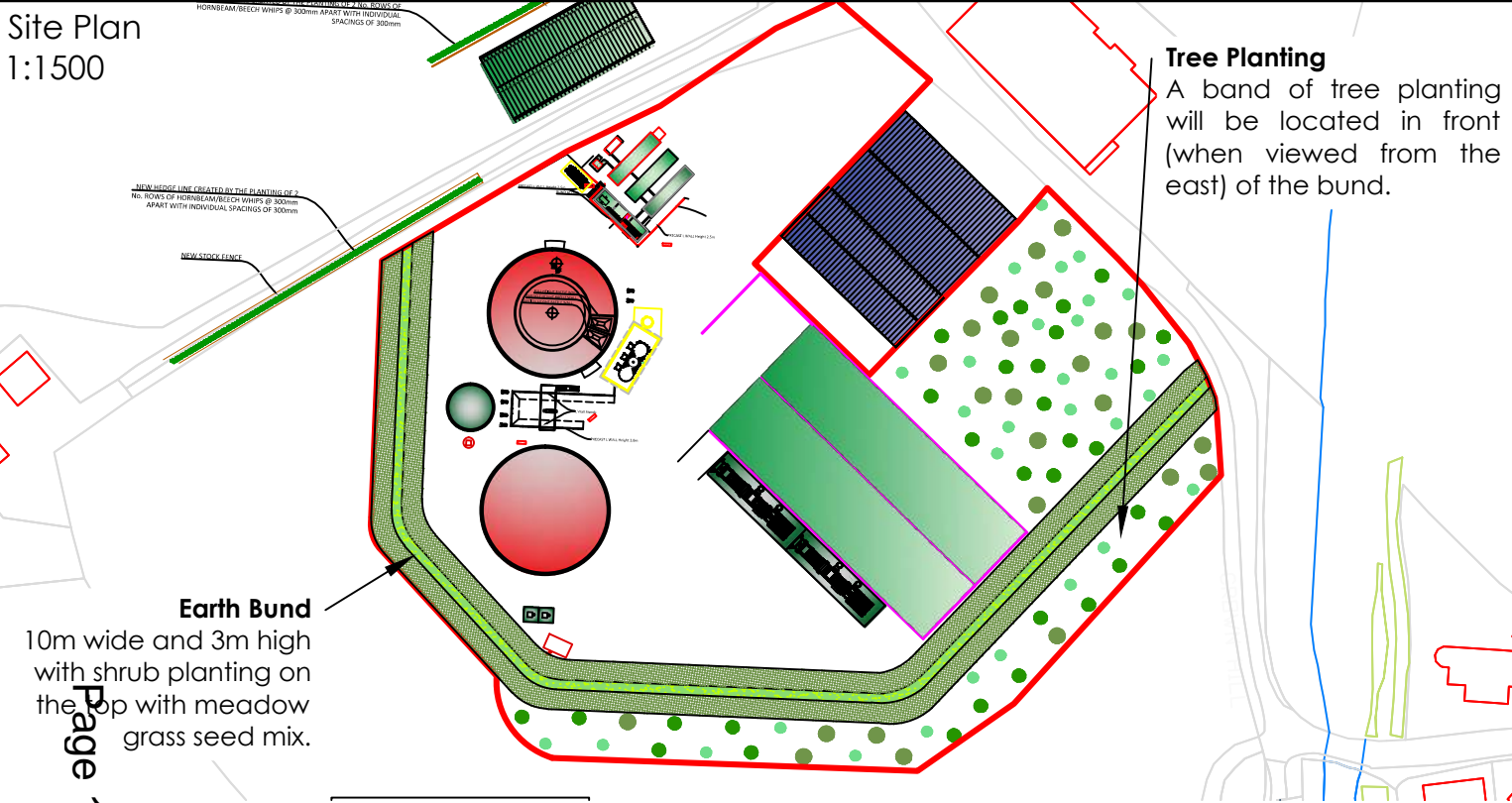
Cilent

Greener for Life Energy



## 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

Cilent

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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








L2

Mark	Revision			
REV	Date	18/05/2016		
	Scale	AS SHOWN		
	Drawn	KH		
	Checked	NE		






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

 <p>Offices throughout the UK and Europe</p> <p>www.peterbrett.com</p>		APPENDIX C	
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

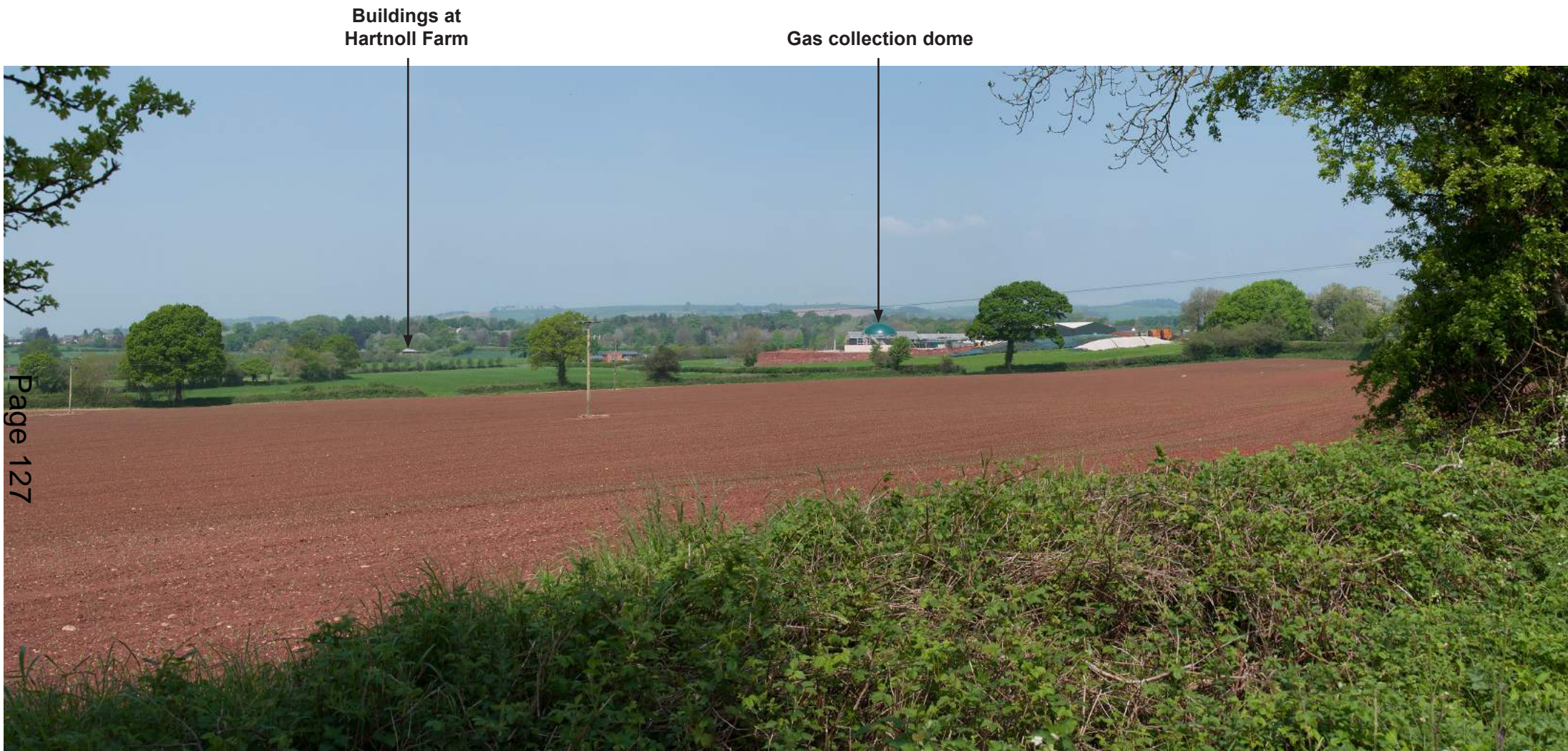





**Viewpoint B:** View from Grand Western Canal Towpath, looking north-west to north towards site.

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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



Page 129

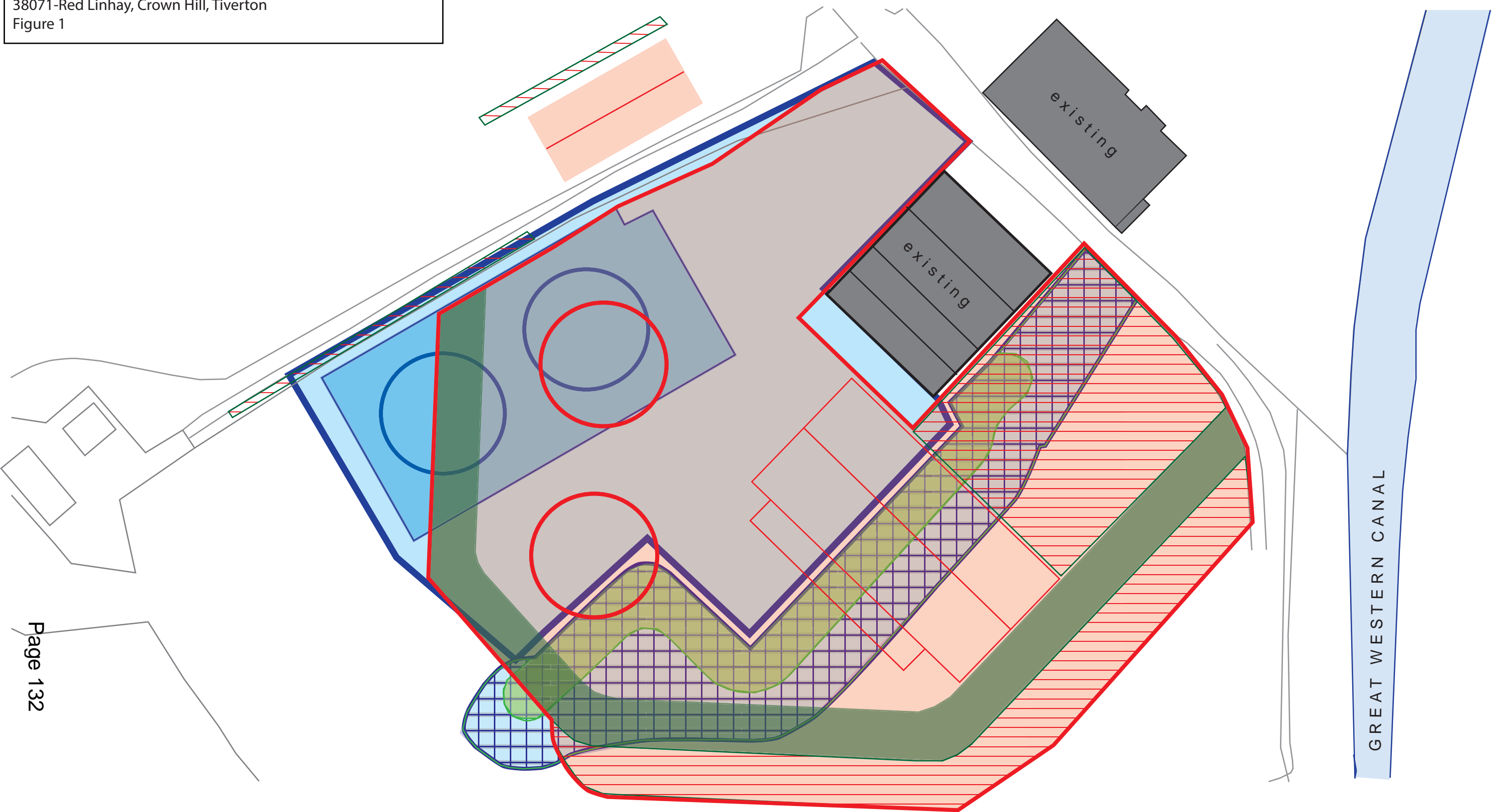
**Viewpoint E:** View from brigde along Manley Lane, looking north-east towards site.

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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

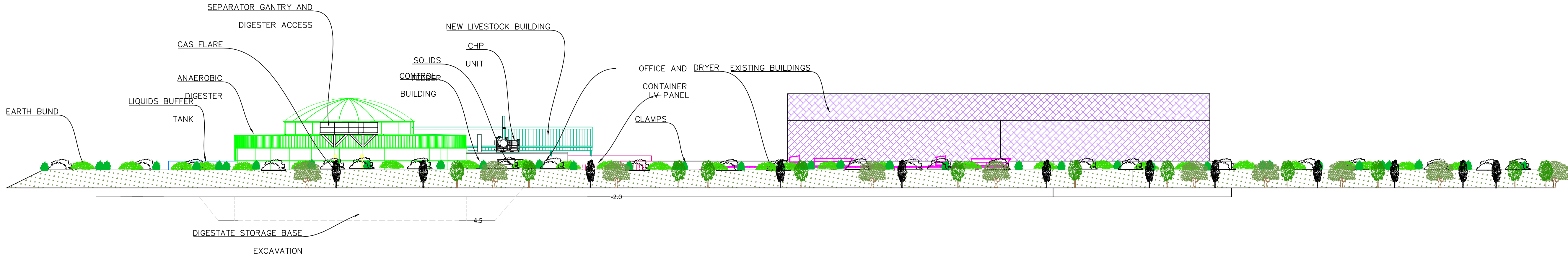
-  Site boundary & Layout for Scheme- A- Existing Planning Permission-13/1605/MFUL
  -  Proposed Bund Scheme- A- Existing Planning Permission-13/1605/MFUL
  -  Proposed planting Scheme- A- Existing Planning Permission-13/1605/MFUL

-  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

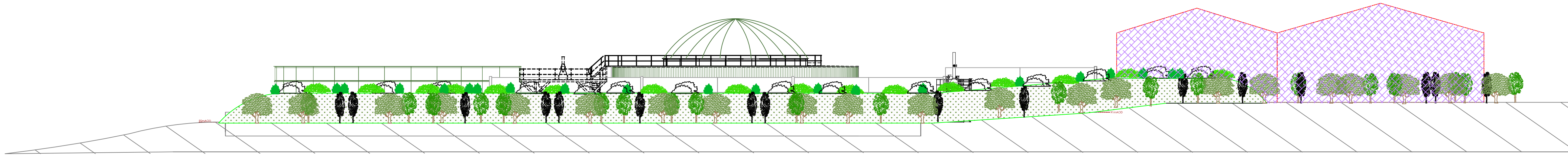


## Appendix E

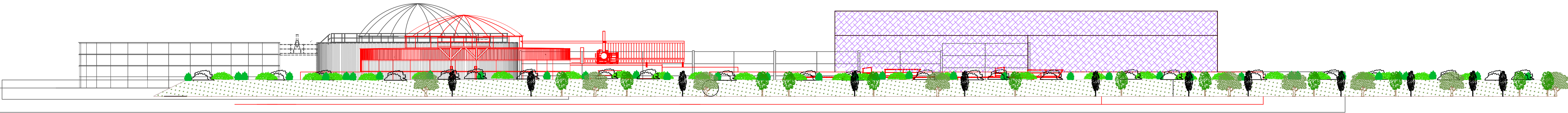




Southwest Elevation - Approved with 106 Agreement



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



## 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	
<b>NATIONAL</b>	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).
<b>REGIONAL</b>	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.
<b>LOCAL</b>	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.
<b>NEGLIGIBLE</b>	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.
<b>UNKNOWN</b>	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
<b>HIGH</b>	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.
<b>MEDIUM</b>	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.
<b>LOW</b>	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.
<b>NEGLIGIBLE</b>	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.
<b>UNCERTAIN</b>	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

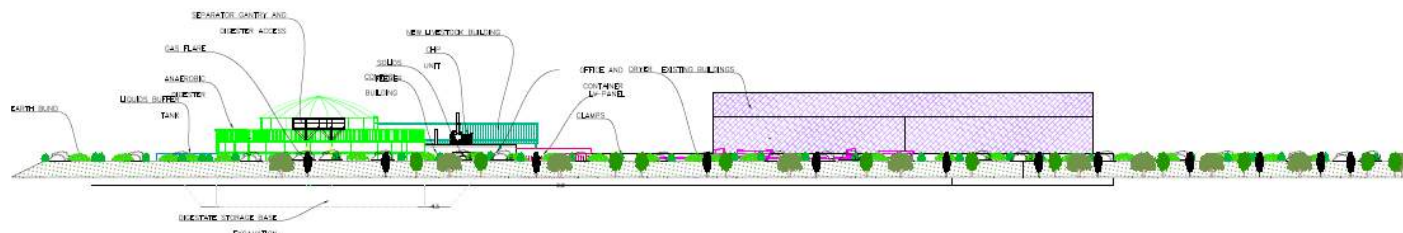




## Appendix G



South Elevation - Proposed



Southwest Elevation - Approved with 106 Agreement



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

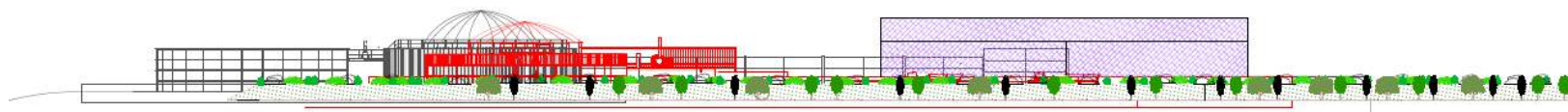


Figure 3: Existing and Proposed Development Elevations Overlay

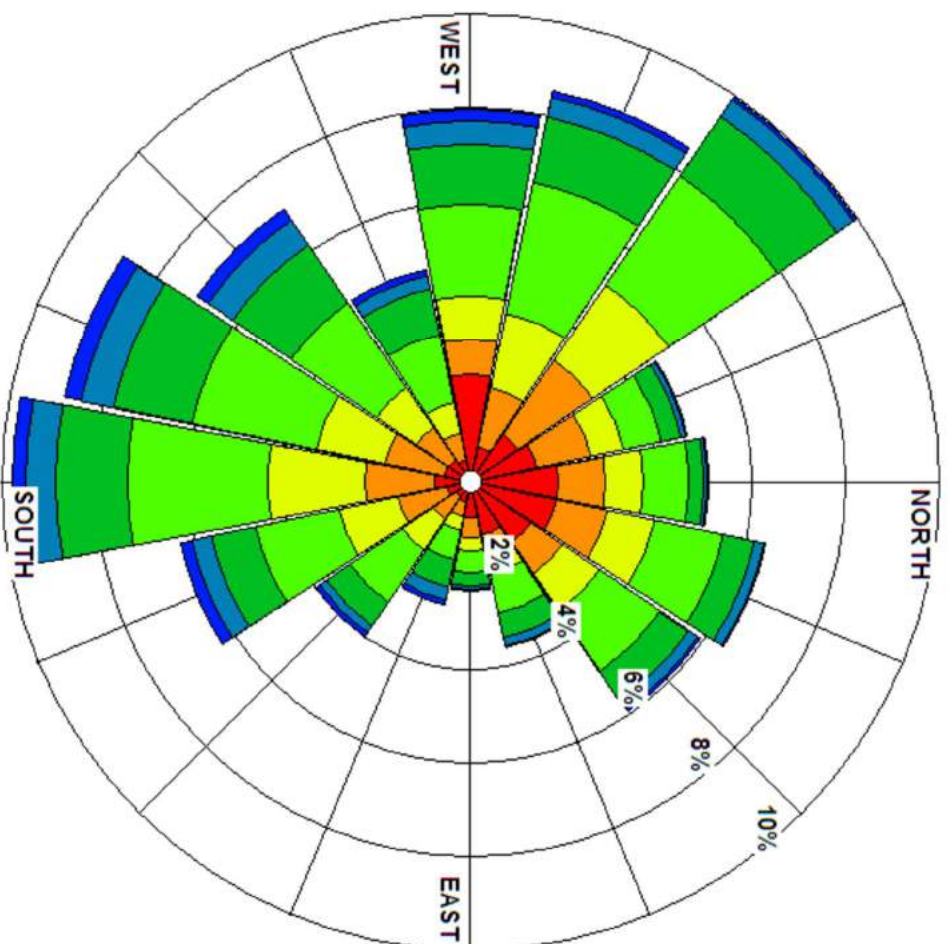
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Date: 17/05/16 Job Number: 10830

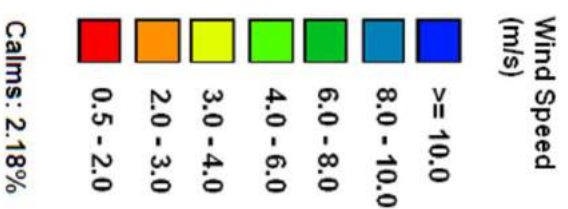
Drawn by: ZE Approved by: AB

## Appendix H





## Exeter, UK 2001-2010



Client:  
**MID DEVON DISTRICT  
COUNCIL**

**RED LINHAY  
ANAEROBIC DIGESTER  
WIND ROSE**



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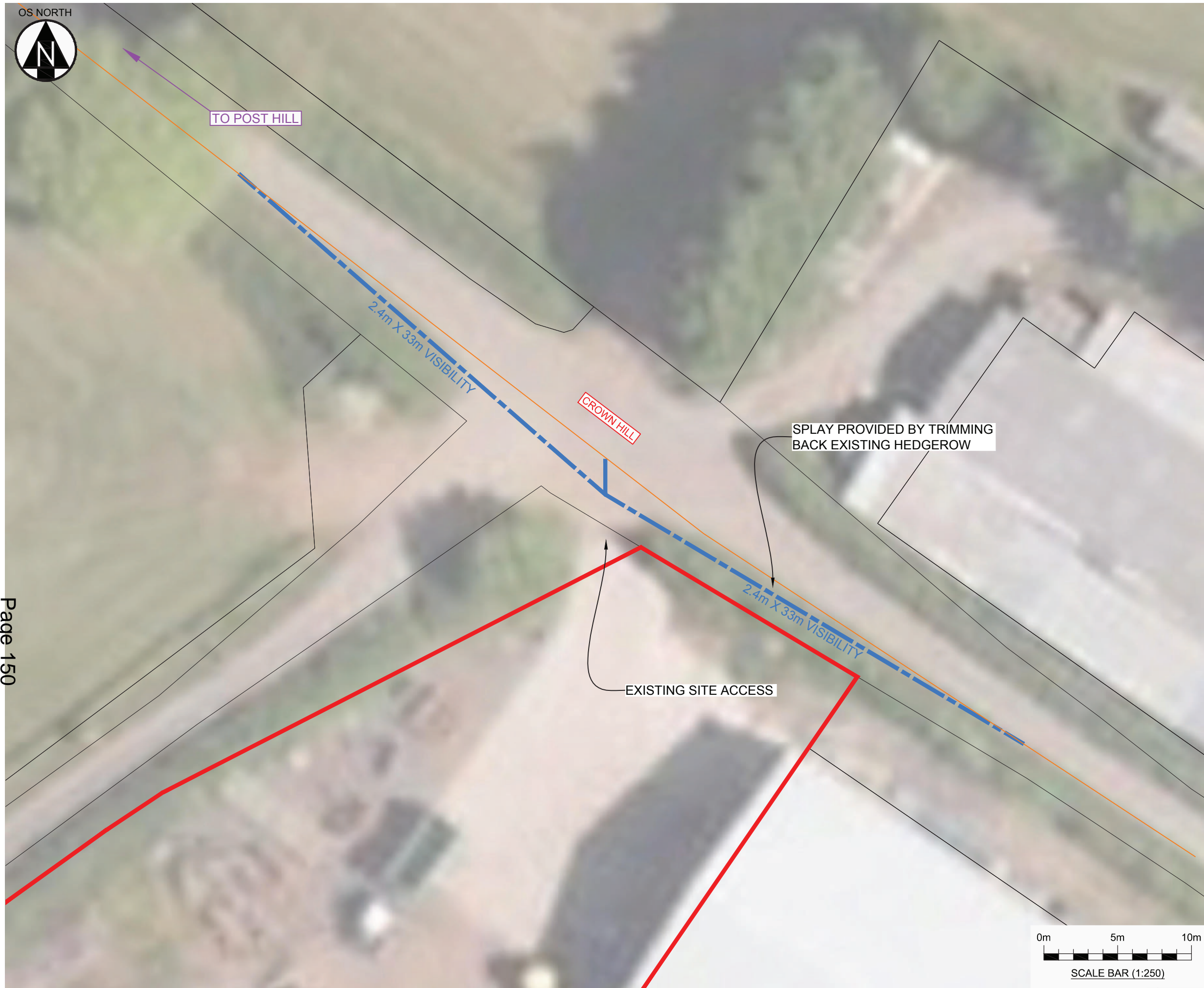
Figure Number

**FIGURE 4.1**



## 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



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or visit www.hydrock.com

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









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 13<sup>th</sup> 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 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 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 13<sup>th</sup> 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 13<sup>th</sup> 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 13<sup>th</sup> 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 13<sup>th</sup> 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 13<sup>th</sup> 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.**

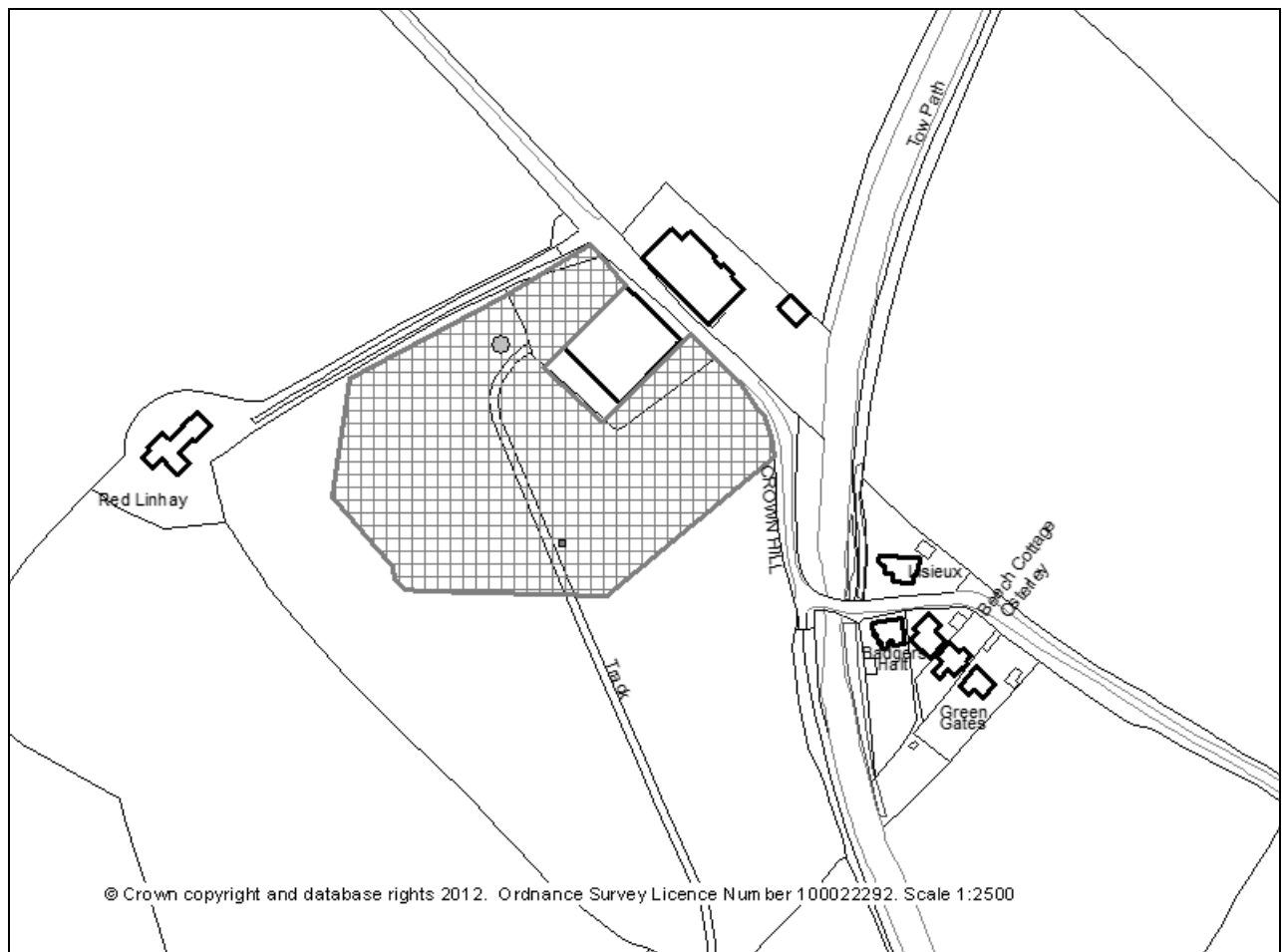
**Grid Ref:** 299621 : 112764

**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

<b>Night-time</b>	<b>Background sound level (LA90 1hr)</b>	<b>Residual sound level (LAeq 1hr)</b>	<b>Daytime</b>	<b>Background sound level (LA90 1hr)</b>	<b>Residual sound level (LAeq 1hr)</b>
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
<b>Averaged Night time</b>	<b>28 (LA90 1hr)</b>	<b>33.5 (LAeq 1hr)</b>	<b>Averaged Daytime</b>	<b>36.1 (LA90 1 hr)</b>	<b>43.2 (LAeq 1hr)</b>

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 26<sup>th</sup> 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 planting 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 (CH<sub>4</sub>) 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
<p>1 Comprises</p> <ul style="list-style-type: none"> <li>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.</li> </ul> <p>Figures underlined as submitted in brackets as calculated</p> <ul style="list-style-type: none"> <li>A digestate storage tank: height 7m, diameter 24.8m and capacity of <u>4500</u> (3381) cubic metres.</li> <li>A buffer tank: height 4m and diameter 8m.</li> <li>A control cabin housing the control panels for the anaerobic digester: 12 long, 3m wide, and 2m high</li> <li>A CHP unit: 12m long and 2.6 m wide and 7m high contained in an acoustic box</li> <li>A solids feeder tank: 9.2 m long, 3.8m wide and 2.8m high</li> <li>A separator frame and clamp: 9m long, 7m wide, and 5.5m high</li> <li>Silage clamps comprising four bays: 14.7m wide, 29m long by 4.6m high proposed to hold</li> </ul>	<p>1 Comprises</p> <ul style="list-style-type: none"> <li>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</li> </ul> <p>Figures underlined as submitted (in brackets) as calculated</p> <ul style="list-style-type: none"> <li>A digestate storage tank: height 8m, diameter 25m and capacity of <u>3926</u> (3927) cubic metres.</li> <li>A buffer tank: height 4m and diameter 9m.</li> <li>A control cabin housing the control panels for the anaerobic digester: 12 long, 3m wide, and 2m high</li> <li>1 x CHP unit: 13.5m long and 3 m wide contained in an acoustic box including a chimney of 7m</li> <li>Control building 14m long x 7m wide x 3m high</li> <li>Gas compressor building 8m x 3.5m x 3m high</li> <li>Transformer, HV switch each 2.5m x 2.5m x 2.4m high</li> <li>LV panel 12m x 2.5m x 2.5m high</li> <li>Office 13.5m x 2.5m x 2.5m high</li> <li>Solids feeder 9m x 4m x 4m high</li> <li>2 x Dryers 43m x 6m x 3.5m high</li> <li>Gas flare 6m x 3m x 4.8m high</li> <li>A separator frame and clamp: 9m long, 7m wide, and 5.5m high</li> <li>feedstock clamps comprising 2 bays: 60m x</li> </ul>

## Appendix 1 – Synopsis of changes

<p>silage (7844 cubic metres)</p> <ul style="list-style-type: none"> <li>• A concrete yard for vehicular movements</li> <li>• A GRP kiosk to house metering circuit breaker</li> </ul> <p>Bund recessed into the ground 1.4m</p> <p>Overall area 0.91 hectares</p> <p>AD Plant feedstock 13,925 tonnes</p> <ul style="list-style-type: none"> <li>• Cow slurry - 2,000 tonnes</li> <li>• Farmyard manure - 1,000</li> <li>• Chicken manure - 2,000 tonnes</li> <li>• Maize silage - 4,444 tonnes</li> <li>• Grass silage - 2,981 tonnes</li> <li>• Beet - 1500 tonnes</li> </ul> <p>No Animal by products</p> <p>Source</p> <p><b>Manures</b></p> <p>Swanhams Farm 4.25 km east of Halberton</p> <p>Rix Farm between Tiverton and Bolham</p> <p><b>maize, grass and beet silage</b></p> <p>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.</p> <p>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.</p> <p><b>Supporting Information</b></p> <p>Waste Minimisation Statement</p>	<p>15m by 4m high proposed to hold material (7200 cubic metres)</p> <ul style="list-style-type: none"> <li>• A concrete yard for vehicular movements</li> </ul> <p>A GRP kiosk to house metering circuit breaker</p> <p>Bund Recessed into ground 2.0m</p> <p>Overall area 1.23 hectares + additional area for planting</p> <p>AD feedstock 14,231 tonnes</p> <ul style="list-style-type: none"> <li>• Cow slurry - 2,000 tonnes</li> <li>• Farmyard manure - 1,000</li> <li>• Chicken manure - 2,000 tonnes</li> <li>• Maize silage - 4,444 tonnes</li> <li>• Grass silage - 2,981 tonnes</li> <li>• Beet - 1500 tonnes</li> </ul> <p>No Animal by products</p> <p>Source</p> <p><b>Manures</b></p> <p>Swanhams Farm 4.25 km east of Halberton</p> <p>Rix Farm between Tiverton and Bolham</p> <p><b>maize, grass and beet silage</b></p> <p>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.</p> <p>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.</p> <p><b>Supporting Information</b></p> <p>Waste Minimisation Statement</p>
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## Appendix 1 – Synopsis of changes

<p>Odour Management Plan (dated March 2014)</p> <p>Appendix 10 (showing Swanhams farm and Rix Farm - chicken, farmyard and slurry source sites)</p> <p>Photograph (to illustrate GRP kiosk to house HV metering circuit breaker)</p> <p>Nutrient Management Plan</p> <p>Manure Management Plan</p> <p>Written Scheme of Investigation for Archaeological Watching Brief</p> <p>Landscape and Visual Impact Assessment</p> <p>GroundSure - Flood Insight report</p> <p>Pre-Development Flood Risk Assessment</p> <p>Extended Phase 1 Habitat Survey Report</p> <p>Envirocheck Report</p> <p>Volume 1 - Supporting Information (Post Submission Amended) - February 2014</p> <p>Volume 2 - Process Information - November 2013</p> <p>Transport Statement - October 2013</p> <p>Volume 3 - Environmental Review (post Submission Amended) - February 2014</p> <p>Environmental Health Noise and odour no objections</p>	<p>Odour Management Plan (dated March 2014)</p> <p>Appendix 10 (showing Swanhams farm and Rix Farm - chicken, farmyard and slurry source sites)</p> <p>Photograph (to illustrate GRP kiosk to house HV metering circuit breaker)</p> <p>Nutrient Management Plan</p> <p>Manure Management Plan</p> <p>Written Scheme of Investigation for Archaeological Watching Brief</p> <p>Landscape and Visual Impact Assessment</p> <p>GroundSure - Flood Insight report</p> <p>Pre-Development Flood Risk Assessment</p> <p>Extended Phase 1 Habitat Survey Report</p> <p>Envirocheck Report</p> <p>Volume 1 - Supporting Information (Post Submission Amended) - February 2014</p> <p>Volume 2 - Process Information - November 2013</p> <p>Transport Statement - October 2013</p> <p>Volume 3 - Environmental Review (post Submission Amended) - February 2014</p> <p>Historic environment site assessment</p> <p>Landscape response (East Devon)</p> <p>Ground water Vulnerability Plan</p> <p>Environmental Health issues with noise levels during proposed 24hr use</p>
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**Application No.** 16/00352/MFUL

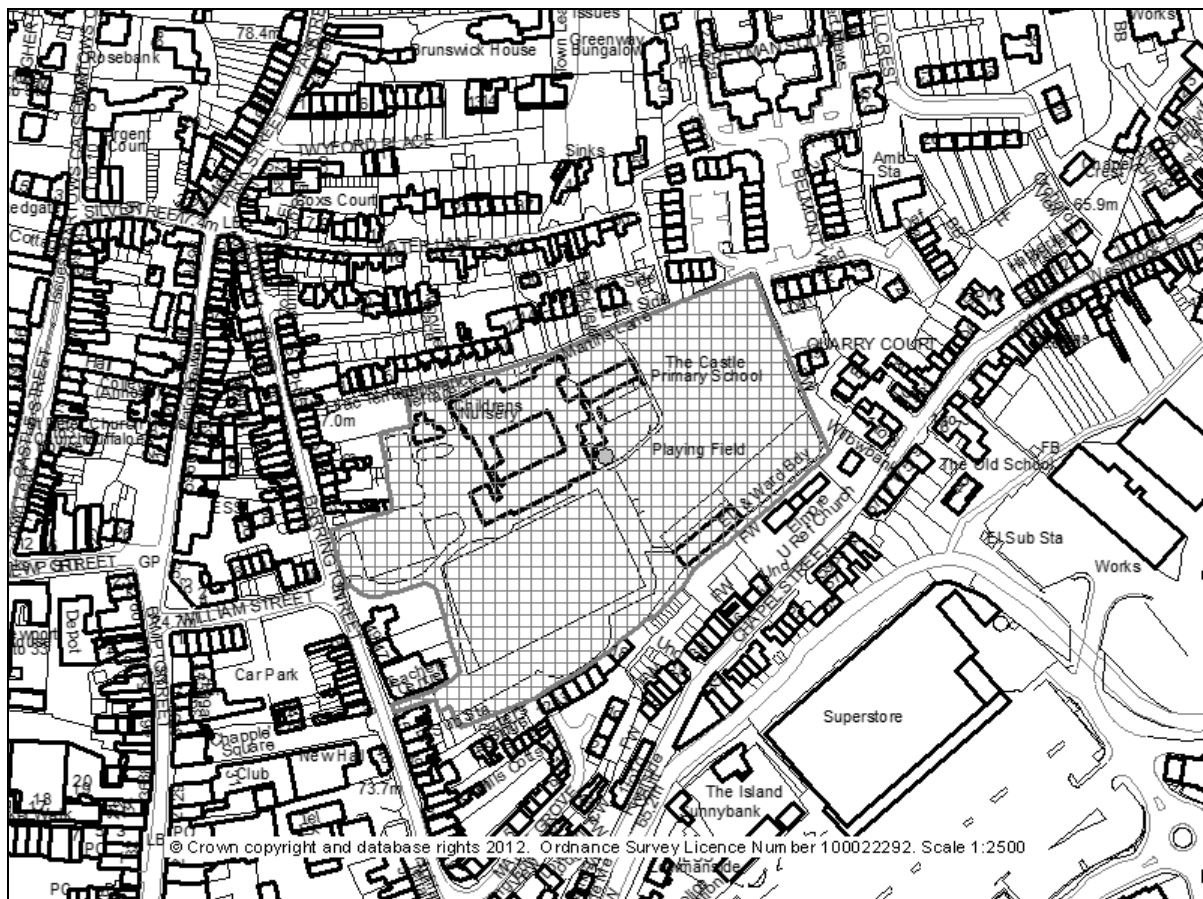
**Grid Ref:** 295764: 112869

**Applicant:** Ms D Newman, BAM Construction Ltd

**Location:** Castle Primary School  
Barrington Street  
Tiverton  
Devon  
EX16 6QR

**Proposal:** Construction of a new two storey school  
on existing school grounds, with  
associated landscaping works and  
demolition of existing school buildings

**Date Valid:** 09<sup>th</sup> June 2016



**REPORT OF THE HEAD OF PLANNING AND REGENERATION – MRS JENNY CLIFFORD**

**16/00352/MFUL - CONSTRUCTION OF A NEW TWO STOREY SCHOOL ON EXISTING SCHOOL GROUNDS, WITH ASSOCIATED LANDSCAPING WORKS AND DEMOLITION OF EXISTING SCHOOL BUILDINGS**

**Reason for Report:**

To determine this planning application.

**RECOMMENDATION**

**Grant Permission subject to conditions**

**Relationship to Corporate Plan:**

This application is relevant to the Corporate Plan priorities of community and environment.

**Financial Implications:**

Education Funding Agency funding for this scheme has been secured under the Priority Schools Building Programme.

**Legal Implications:**

None identified.

**Risk Assessment:**

Clarification has been sought from the Education Funding Agency (EFA) on the status of the Priority Schools Building Programmes award associated with this site and the extent to which building retention and refurbishment has been considered as part of the bid process. The upgrading of school facilities is a public benefit resulting from the scheme. Clarification has been sought – the retention and refurbishment of the existing main school building has been considered as an option in the funding assessment and has been rejected. The EFA Funding Manager for the south west has confirmed that in his view funding would not be available or awarded for a retention and refurbishment based scheme. Accordingly it would appear that the only viable option in order to achieve a significant upgrade in the education facilities to achieve a 21<sup>st</sup> century teaching environment is the demolition of the existing building and the erection of a new school as proposed.

Members need to weight the harm arising from the demolition of the existing school as a non-designated heritage asset and on the Conservation Area against the public benefit in realising upgraded school accommodation. If planning permission is refused, financial support from the EFA under the Priority Schools Building Programme will be lost. In that event, any future bid for EFA funding would still be made on the basis of a demolition and new build scheme.

**Consultation carried out with:**

1. Tiverton Town Council
2. Highway Authority
3. Devon County Education
4. Mid Devon Council Tree Officer
5. Environment Agency
6. Tiverton Civic Society
7. Historic Environment Service
8. Development Services Manager
9. Devon and Cornwall Police
10. Teignbridge District Council Conservation Team
11. Environmental Health
12. Lead Local Flood Authority
13. Natural England
14. Waste and Transport Manager

## **1.0 PROPOSED DEVELOPMENT**

This application proposes the construction of a new two storey school within the existing school grounds at Castle Primary School, Tiverton, including associated landscaping works and demolition of existing school buildings. The existing school buildings are proposed to be demolished.

The design of the proposed school is shown on drawing number 1090-PL07 REV A. The proposal is a modular design with a functional appearance. The proposal will be constructed from a mixture of concrete blockwork (Steel Grey and Bathstone), aluminium windows and doors (which incorporate blue and green panelling), and a shallow, dual pitched metal profiled roof. The overall size of the proposal measures approximately 76metres x 24metres with a height of 8.6metres to ridge and 7.2metres to eaves. The building includes a mixture of flues and ventilation cowls to support utilities within the building.

The existing main school building is an Edwardian style grammar school, dating from 1909. The building is situated within the Tiverton Conservation area and is noted as a building of importance within the Tiverton Conservation Area Appraisal. In January 2016 Historic England issued details of their assessment to consider whether Castle Primary School should be added to the List of Buildings of Special Architectural or Historic Interest. Historic England's assessment concluded Castle Primary School does not have the requisite level of architectural or historic interest to be included as a 'Listed building' however was clearly of local interest. The southern elevation of the existing school remains somewhat original and has architectural merit, however, it should be noted that post war extensions to the North of the school are of

limited/poor quality. The merits and detriments of demolishing the existing school are discussed within the report below.

Blagdon School House sits within the school grounds is detached from the main school building to the North West. The building is a former dwelling which was later used as a school building. The property is in poor condition and has been condemned as unsafe and is currently boarded up. The building is proposed for demolition as part of this scheme, and the site will be used as part of the proposed play area/open space.

There is a nursery school to the North West of the site. This will be unaltered by the proposals and retained for use as a nursery.

## **2.0 APPLICANTS SUPPORTING INFORMATION**

Heritage Statement

Ecology and Bat survey

Construction Environmental Management Plan

Drainage calculations and drawings

Photomontage

Surface Water Maintenance Schedule

BREEAM statement

Carbon reduction statement

Arboricultural survey

## **3.0 PLANNING HISTORY**

There is no planning history specific to this site which needs to be taken into account as part of the assessment of this application.

## **4.0 DEVELOPMENT PLAN POLICIES**

Mid Devon Core Strategy 2026 (2007)

COR 1 – Sustainable Communities

COR 2 – Local Distinctiveness

COR 7 – Previously Developed Land

COR 9 – Access

COR 11 – Flooding

COR 13 – Tiverton

Allocations and Infrastructure Development Plan Document (2011)

AL/TIV/13 – William Street

Local Plan Part 3 (Development Management Policies) (2013)

DM1 – Presumption in favour of sustainable development

DM2 – High quality design

DM3 – Sustainable design

DM4 – Waste management

DM8 – Parking

DM25 – Community facilities

DM27 – Development affecting heritage assets

DM28 – Green infrastructure in major development

## **5.0 CONSULTATION RESPONSES**

MID DEVON DISTRICT COUNCIL - TREE OFFICER - 7th April 2016

In order to build the new school at Castle Primary there will be some tree removal required. The trees scheduled for removal are shown on drawing number 1090 - PL10.

The majority of the trees are of little amenity value. The row of mature cherry trees running along the frontage of the current school building are good trees but with a limited life expectancy and lacking in wider landscape value.

Of the proposed trees to be felled T19 Horse Chesnut (*Aesculus hippocastanum*) and T38 Lime (*Tilia x europaea*) do merit further consideration. These are large mature trees. Their amenity value is reduced, as they are set quite far back into the site but they would still be worthy of consideration for protection by Tree Preservation Order. As MDDC Tree Officer I can only object to the removal of the trees. Should this application be accepted suitable mitigation planting should be required, which could include planting at least 2 trees which will reach a good future size. The existing proposal for replacement trees consists of 6 Field Maples in a row to the west of the site, this is not adequate.

I have no objection to the proposed removal of other trees as shown on plan 1090-PL10.

Throughout the entire development process, including demolition of the old building, the trees should be protected in accordance with BS 5837:2012 Trees in relation to design demolition and construction - recommendations. A full Tree Protection Plan is still required and if any work is required within or close to the root protection zone of any trees a full method statement would be required.

ENVIRONMENT AGENCY - 15th March 2016

The site lies within Flood Zone 1. We advise that we have no comment to make on this application and recommend that you consult Devon County Council, the Lead Local Flood Authority, on the proposal.

As you will be aware, following revisions to the Development Management Procedure Order (DMPO), from 15 April 2015 the Environment Agency is no longer a Statutory Consultee for matters relating to surface water drainage; we do however remain a statutory consultee for developments within Critical Drainage Areas (CDAs). Further guidance on when to consult

us can be viewed on our Flood Risk Standing Advice via the following link.  
<https://www.gov.uk/flood-risk-assessment-local-planning-authorities>

ENVIRONMENT AGENCY - 18th May 2016

We have nothing to add to our comments made on 15/3/16.

HIGHWAY AUTHORITY - 21st March 2016

Observations:

The site is located in a town centre location with existing car parking to remain and the provision of a public car park within 20m of the site. The Highway Authority has no objection to the reconstruction of the school.

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

HIGHWAY AUTHORITY - 10th May 2016

No further comments.

HISTORIC ENVIRONMENT SERVICE - 1st April 2016

I refer to the above application. The proposed development will involve the demolition of the Edwardian grammar school, while this building is not a designated heritage asset it is recognised by Historic England as heritage asset of local interest. It also lies within and contributes to the Tiverton Conservation Area. Should consent be granted by your Authority for the demolition and loss of this non-designated heritage asset I would advise, in accordance with paragraph 141 of the National Planning Policy Framework and guidance in the Mid Devon Local Plan, that an appropriate record was made of the school building and its environs prior to any demolition works commencing. This would be undertaken through the application of the following worded condition, based on model Condition 55 as set out in Appendix A of Circular 11/95 and English Heritage guidance as set out in 'Understanding Historic Buildings: Policy and Guidance for Local Planning Authorities - 2008', whereby:

"No development to which this permission relates shall commence until an appropriate programme of historic building recording and analysis has been secured and implemented in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority.

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

Reason: 'To ensure, 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 the heritage asset that is affected by the development.'



The results of the historic building recording and any post-excavation analysis undertaken would need to be presented in an appropriately detailed and illustrated report.

I will be happy to discuss this further with you, the applicant or their agent. I can provide the applicant with a Brief setting out the scope of the works required, as well as contact details for archaeological contractors who would be able to undertake this work.

DEVON & CORNWALL POLICE AUTHORITY - 18th March 2016

The normal areas of concern have been addressed.

The Police have no comments at this time.

ENVIRONMENTAL HEALTH - 22nd March 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 potentially hazardous materials should be assessed.

Reason: In the interests of public health and protection of the environment.

Air Quality - No objection to this proposal

Environmental Permitting - N/A

Drainage - no objections to this proposal.

Noise & other nuisances - No objections to this proposal.

Housing Standards - Not applicable

Licensing - No Comments

Food Hygiene - No comment other than to ensure any food production on site has sufficient storage, preparation and cooking facilities to cope with any increase in numbers of pupils. Please contact EH department if advice is wanted.

Private Water Supplies - Not applicable

Health and Safety - 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 <http://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.

LEAD LOCAL FLOOD AUTHORITY - 22nd April 2016

Following my previous correspondence (FRM/2016/492, dated 31st March 2016), the applicant has provided additional information in respect of the surface water drainage aspects of the above planning application, in an e-mail dated 7th April 2016, for which I am grateful.

The e-mail clearly outlines several reasons as to why a variety of above-ground SuDS features cannot be used on this site, which is acceptable. In order to demonstrate that my concerns have been addressed in this regard, the applicant must formalise this e-mail into a document and submit it to the Local Planning Authority so it can be formally registered as part of this application.

Additionally, there are now proposals to utilise filter drains around the perimeter of the hard paved play areas on the site to collect the surface water runoff before conveying it to the attenuation system. The incorporation of these features would provide some water quality benefits, an aspect which was otherwise absent from the original drainage scheme. The applicant must therefore submit a revised surface water drainage management plan to the Local Planning Authority which shows the location of these features across the site.

The applicant has also confirmed that the maintenance of the surface water drainage management system will be undertaken by the school as a part of their normal site management duties. However, we require the applicant to submit an indicative maintenance schedule to demonstrate that all maintenance aspects of the drainage system have been considered, and that those responsible for its maintenance are aware of the work required before it is installed.

The applicant has also confirmed that the maintenance of the surface water drainage management system will be undertaken by the school as a part of their normal site management duties. However, we require the applicant to submit an indicative maintenance schedule to demonstrate that all maintenance aspects of the drainage system have been considered, and that those responsible for its maintenance are aware of the work required before it is installed.

The applicant has also provided a Storm Exceedance Routes drawing (Drawing No. WE03898 2201, Rev. -, dated 12th October 2015), which must be submitted to the Local Planning Authority so it can be formally registered as part of this application.

Consequently, our objection has to remain at this stage until this additional information is formally submitted to the Local Planning Authority, which will demonstrate that all aspects of the surface water drainage management plan have been considered. I trust that this information can be submitted promptly, after which I would be happy to provide an expedited response to withdraw our objection.

10th May 2016

Following my previous correspondence (FRM/2016/492, dated 31st March 2016), the applicant has submitted additional information in respect of the surface water drainage aspects of the above planning application, via e-mail, for which I am grateful.

The applicant has submitted a School Building Drainage Strategy (Drawing No. WE03898 2200, Rev. C, dated 21st October 2015) which now shows the inclusion of filter drains around the hardstanding areas. This has also been accompanied by a Management and Maintenance Plan (Report Ref. WE03898, dated 24th April 2016) for the proposed surface water drainage management system.

These documents address my previously raised concerns, and I am therefore happy to confirm that our objection is withdrawn.

23rd May 2016 - I am happy to confirm that I have no further comments to add to those made in my recent correspondence (frm/2016/610, dated 10th May 2016).

NATURAL ENGLAND - 15th March 2016

No comments.

16th May 2016 - Natural England has previously commented on this proposal and made comments to the authority in our letter dated 15 March 2016

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

The proposed amendments to the original application are unlikely to have significantly different impacts on the natural environment than 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.

23rd May 2016 - Thank you for your consultation.

Natural England has previously commented on this proposal and made comments to the authority in our letter dated 15th March 2016.

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

The proposed amendments to the original application are unlikely to have significantly different impacts on the natural environment than the original proposal.

TEIGHNBRIDGE DISTRICT COUNCIL (Heritage Advice on behalf of MDDC) - 19th May 2016

My comments are to be read in conjunction with my letter of 25th April, 2016.

Statement

I refer to the revised heritage statement revision c, May 2016. Grainge Architects state that extensive analysis has demonstrated that refurbishment of the building is not the preferred

or viable option (clause 1.3) and that refurbishment would cause too much disruption but the information provided is brief.

Clause 4.4 recognises the main building is a good example of Edwardian design but refers to it not being unique. If it were unique it would undoubtedly be listed however this is not the basis of demolition of an important locally listed structure. The basis of this would be a presumption for retention with public benefit following greater evidence overriding its retention. As mentioned previously I would expect to see costed feasibility design schemes for a retained building with a new extension. If the public benefit was proven the architectural quality of replacement building should equal the quality of the historic building and currently it does not.

There are no survey drawings of the building as existing and there are references to leaky flat roofs but this could be part of the 1950s extension.

The introduction seems to concentrate on what the new school will provide for the internal environment that is created without considering the importance of an institutional building that captures a sense of civic pride or its visual effect on a site within a core area of Tiverton.

The photomontages are inadequate and do not show street elevations as recommended.

I refer to Historic England's guidance 'Historic School Buildings' produced in conjunction with Mott MacDonald on design awarded schemes which depicts schemes where historic buildings are extended and refurbished to provide good quality educational spaces. 'Refurbishing Historic School Buildings' is also a worthwhile publication.

The schedule of costs

As submitted the schedule loose and questionable.

Remodelling is set at £2,072 per m2 but could be £750.

Abnormals are high at £2,404,320.00.

Site access lifts £90,000 this could be £40,000

External parapet wall £50,000 – what qualifies this? Has a survey been done to say so many metres require resetting. The true cost could be minimal. The external facades of buildings of this period are often very good.

Window replacement at £207,000 – for 100 windows is very high. 100 windows may not require replacement.

Roof replacement – is this for the 1950s extension?

Check life span for refurbished works - £187,500 – this isn't qualified and should be explained.

Works to external works £78,180.00 – this presumably would be included in the new building scheme and I would say should not be part of the refurbishment costs.

Page commencing Abnormals demolition ending £2256,080.00 is not titled and I think refers to the new build. The subsequent pages should also be titled.

## Covenant

The statement refers to the covenant that the land should be used for educational use. I refer to clause 5 and 8 and my understanding is that they could sell on the existing school with the agreement of the Charity Commission who may choose to use the money gained on the site for educational purposes or perhaps on other educational sites in Tiverton.

I do not consider that the report has provided the information that was recommended. The proposed replacement school is not of an architectural quality to match the original and it is regrettable that a site such as this was not considered for an architectural competition.

TEIGHNBRIDGE DISTRICT COUNCIL (Heritage Advice) on behalf of MDDC - 27th April 2016

Castle Primary School was built in 1902-10 to the designs of William Ashford of Birmingham which has since been extended to the north and east, subsequently remodelled in 2010. The building is red brick with stone dressings with the principal south front in 'Wrenaissance style' described by Historic England as a handsome arrangement with rubbed brick window arches, stone quoins and door cases and carved wreaths in dentilled gables. The building was considered for designated listing by Historic England but did not reach the required criteria, though is considered to be of local interest. The later 1950s extensions are not considered to be of architectural merit.

Tiverton Conservation Area was originally designated in February 1973 and was extended in July 1992. A report was taken to the planning committee on 25 May 2005 and the Conservation Area extended and Conservation Area Appraisal adopted as Supplementary Planning Document on 15 June 2005. The 2005 alterations to the conservation boundary were to include the Castle Primary School site amongst other areas. The School is highlighted as an important unlisted building within the Tiverton Conservation Area Appraisal and the school grounds are considered to be an area of important open space.

Mid Devon District Council operate a Local Heritage Assets register however non designated heritage assets such as Castle School are not individually identified and included within the local list as it is considered they are offered protection through lying within the designated Conservation Area and these buildings are already protected under the Planning (Listed Buildings and Conservation Areas) Act 1990.

Proposed demolition of existing building and new school.

The proposal is to demolish both the Edwardian grammar school and its later extensions which lie within the Conservation Area and to build a new school in the playground outside the conservation area though affecting its setting. The capacity of the school is 360 pupils with future expansion to cater for 420 pupils and it appears the existing and proposed schools will cater for roughly the same numbers of children. The Design and Access statement refers to inadequacies with the school which it deemed not fit for purpose. It sites the need for a lift, threshold and access issues, the main building is said to be in a poor state of repair and there is a requirement for mechanical ventilation within the existing building. It is unclear whether the new building would be mechanically ventilated. It was noted on the site inspection that there were level problems particularly on the first floor and some door widths may need to be considered to better cater for disabled access. A need for mechanical ventilation is agreed. The report commissioned by the Education Funding Agency does not form part of the application however Mid Devon Local Plan DM27 (a) refers to a presumption to retain the most important heritage assets. The Heritage statement states the EFA undertook a feasibility study to retain the Edwardian building but it was not considered value

for money due to the need for temporary accommodation. There are no cost comparisons to inform whether the building is beyond reasonable repair or to gauge the differences and benefits between the options and the costs of a new building. There is no evidence to consider different options on the use of the site and whether the Edwardian building could be re-developed to a separate use with a new owner.

Devon County Council raised concerns over the building being included within the conservation area in 2005 related to the car park and access but not relating to the condition of the building and indeed Devon County Council remodelled the school in 2010.

At this stage I do not consider there is sufficient evidence to support the loss of an important building with considerable architectural merit with the loss that would entail to the conservation area. There are undoubted problems within the existing building that need to be resolved which may be resolved with refurbishment. I would have expected there to be a thorough exploration through a costed sketch scheme to refurbish, retain and extend the grammar school in comparison to building a new school. The level of public benefit could then be better assessed on the benefits of a new school against the loss of a building that is important to the Conservation Area and history of the town. An appraisal of the site should also be undertaken with the Edwardian block redeveloped for a new use.

The proposed school is based on a simple rectangular block plan constructed of split faced concrete block spruce or bathstone, aluminium windows, coloured panels with profiled metal roof. Institutional buildings can constrain design but not necessarily.

The proposed design lacks innovation, appreciation of the character of the area or any reflection of local distinctiveness and use of materials. Local materials in this area are natural slate, red brick, render and two types of natural stone were observed. Should the requirement for a new school providing public benefit be proven I would recommend the design is reconsidered to better respect the setting of the Conservation area so that it preserves or enhances its qualities. Viewpoints and photomontages should be provided from key areas within the town and wider townscape.

The proposed materials would be particularly obtrusive and inappropriate as would the coloured panels and metal profiled roof. The existing building is slightly set back within the Conservation Area but is both striking and respects its neighbours and to preserve the qualities of the conservation area the new building should do the same. I would consider this proposal demonstrate less than substantial harm on the conservation area.

#### Setting of Designated Heritage Assets.

The District Council has a duty to have special regard under section 66 of the Listed Buildings and Conservation Areas Act to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

It was considered that there was no harm to the setting of 85, 87, 89 and 91 Barrington Street, the Bank cafe 33-35 Bampton Street, 37 Bampton Street, 101 and 102 Bampton Street, 42 Gold Street as existing building topography blocks views of the proposed development. It was considered there was likely no harm to the setting of Elmore Congregational Church Chapel Street due to the gradients of the land and tree cover but a photo montage street view from this area is recommended. The west elevation of the current building is viewed from the arch of 57 Bampton Street

however this view may be of open space with the new location of the new building so there is considered to be no harm; a street view from this point is also recommended.

The major effect is considered to be the loss of an important heritage asset, effect on the character and appearance of the area and the effect on the conservation area and its setting. I do not consider the retention of an important heritage building has been properly explored or is available for scrutiny and the design of the proposed replacement building does not respect the character to preserve or enhance the conservation area. I do not recommend approval of this scheme at this stage.

## Policy

### Listed Buildings and Conservation Areas Act 1990

66 General duty as respects listed buildings in exercise of planning functions.

(1) In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

72 General duty as respects conservation areas in exercise of planning functions.

(1) In the exercise, with respect to any buildings or other land in a conservation area, of any [F1functions under or by virtue of] any of the provisions mentioned in subsection (2), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

NPPF In particular para 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.

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 135. The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that affect directly or indirectly non designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

### Mid Devon Local Plan 2013

DM2 High Quality Design - Designs of new development must be of high quality, based upon demonstrating the following principle:

c) Positive contribution to local character including any heritage or biodiversity assets and the setting of heritage assets.

e) Visually attractive places that are well integrated with surrounding buildings, streets and landscapes, and do not have an unacceptably adverse effect on the privacy and amenity of the proposed or neighbouring properties and uses, taking account of:

i) Architecture

iv) materials.

DM27 Development affecting heritage assets.

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 setting, 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) Where a development proposal would lead to less than substantial harm, that harm will be weighed against public benefit..'

Tiverton Conservation Area Appraisal planning guidance Supplementary Planning Document.

Report to Planning Committee 25th May 2015

2.6 Tiverton Town Council welcomed the document as a means of continuing and strengthening protection of the town's heritage. Possible extension of the boundary is welcomed provided account is taken of likely economic impact of the changes for example on Heathcoats and on Castle Primary School.

Identification of important unlisted buildings, structures and trees is approved

2.14 Castle Primary School through Devon County Education raised concerns about inclusion although this related to the car park and access both of which are in the current Conservation Area

3.3 The review of Conservation Area boundaries fulfils the Authority's duty under Section 69 of the Planning (Listed Buildings & Conservation Areas) Act 1990 to "review ... and to determine whether any parts or further parts of their area should be designated as Conservation Areas; and if they so determine they shall designate those parts accordingly". The additional areas proposed for inclusion are considered to be of architectural or historic interest and their character or appearance worth preserving or enhancing.

HISTORIC ENGLAND - 26th May 2016 - Historic England Advice

Further to our previous planning response, we have been provided with an amended Heritage Statement for the proposed demolition and rebuilding of Castle Primary School. This provides additional context to the project, assesses the benefits of the new school building and includes information on legal restrictions to the use of the site and on the feasibility assessment of the reuse of the existing building for school purposes. The two



latter documents have only become available to us today, and our opportunity to fully analyse them has therefore been limited, which somewhat hampers our ability to make a comprehensive response.

However, we have undertaken an initial high level assessment of the financial feasibility study of three options: refurbishment of the existing school buildings, refurbishment of the historic school building with demolition of the mid twentieth century additions and construction of some new build classrooms, and demolition of all existing buildings (excluding the nursery range) with construction of a new school. The overall relative costings shown are: £5.1 million for refurbishment alone, £5.6 million for refurbishment and limited new build and £4.56 million for the new school which is proposed. Within those costings, we note that in both refurbishment options the cost is significantly increased by the expense of providing temporary accommodation, which is approximately £1 million. We find it slightly surprising that this cost is the same for both refurbishment alone and for refurbishment with new build, since we would expect that the latter option had a lesser requirement for temporary accommodation, as the new build construction and refurbishment of existing buildings could be phased, thereby reducing the overall cost. We wonder, therefore, whether the overall cost of this option is necessarily as high as is shown and the discrepancy with the costs of the total new build scheme is as great as it appears. Also, external repair items such as the identified need for the total replacement of windows within the existing school could be reviewed in line with guidance we have produced relating to the refurbishment of historic windows in ways which also improve their insulation properties and reduce potential costs.

We are aware that the government funding stream for this project is one which is targeted at building new schools rather than the refurbishment of existing schools, and would question how this affects the weighting that is afforded to the new build option over the refurbishment options? Our publication *Refurbishing Historic School Buildings*, published by English Heritage in 2010, sets out the principles of our approach to the refurbishment of historic school buildings, the reasons why we consider that the retention and adaptation of such buildings is both desirable and beneficial, and provides guidelines for this process, as well as successful case studies.

The document can be found through this internet link:  
<https://historicengland.org.uk/advice/planning/local-heritage/historic-school-buildings/>.

Whilst acknowledging that school buildings need to be adaptable and remain functional, the document advises that "there is no reason why a skilled design team cannot adapt existing buildings to achieve this, even if such transformation may occasionally need to be radical and innovative". A number of case studies are provided of a variety of schools where such schemes have occurred. Since the assessment for listing clearly identified what is most significant about the building, we believe there could be considerable flexibility in how it could be adapted for continuing school use, whilst retaining the architectural shell of the original building. It would be interesting to know on what level of adaptation the feasibility costings were based in both of the refurbishment options.

In terms of an alternative use for the historic Castle school building, we have seen the legal document which restricts the use of the site to a county school. It is unclear whether this clause duplicates one from an earlier document, and what is its origin, since the document in which it occurs appears to be quite recent. However, even if the building is ultimately considered to be incompatible with fulfilling its current purpose, there may still be scope for putting it to other educational purposes which could still comply with that clause, as is shown by the existence of the adjacent nursery school.

In relation to the public benefits considered to be offered by the new school building, many of those benefits could also be provided by an option which combined refurbishment and new build. We would question some of the assumptions being made about energy efficiency and environmental gains since the existing building has considerable embodied energy value and could be made considerably more efficient. As is stated in our previously quoted guidance on school buildings, "demolition and replacement of existing school buildings involves a high carbon impact...as well as the material impact of the replacement new build and the loss of the embodied energy within the buildings demolished...Energy efficiency in existing school buildings can be very good, and certainly upgrading work can ensure they meet modern guidelines". An example is cited of a former grammar school built in 1912 of a not dissimilar style to Castle School, which has achieved a BREEAM rating of "very good".

## Recommendation

Overall, the new information provided does not significantly change our view of the desirability, and potential feasibility, of retaining the historic Castle School building, albeit with some adaptation and extension to improve its functionality for its existing use or a related one. As both an undesignated heritage asset, and a building of value within a designated heritage asset (the conservation area) its loss could be considered harmful under policies 134 and 135 of the NPPF. We believe that the necessity for demolishing the historic building could be called into serious question even if it is decided that the school requires a new building. It merits considerable effort being made to retain it alongside seeking to provide for the needs of the existing school users, and those objectives need not be mutually exclusive, as our guidance on the subject demonstrates.

HISTORIC ENGLAND - 27th April 2016

This application proposes the demolition of an early twentieth century school building, located within Tiverton conservation area, and its replacement by a new primary school on the site immediately adjacent to it, which is set just outside the conservation area. The construction and design of the new school building is a matter which we will leave others to comment on, and this letter will focus on the demolition of the historic school.

Castle School dates from between 1902-10, with a handsome main block constructed in brick with stone dressings, designed in the 'Wrenaissance' style, the central section of which terminates in projecting pedimented gables with arched-headed windows. The outer wings are of simplified design and detailing, although the western elevation facing the street has greater formality. Later twentieth century additions to the rear, and internal alterations, together with the relatively late date of the school for its type, resulted in it being rejected for listing when a request for its designation was recently made. However, the listing assessment acknowledged that the building does display architectural quality and decorative detailing, and is "clearly of local interest". This, combined with its inclusion as an important unlisted building in the Council's Conservation Area Appraisal, means that it can be regarded as a non-designated heritage asset, under the criteria set out in the NPPF, whose policies 129, 131 and 135 are applicable in this case.

We have been given a tour of the school by the headmistress, during which its shortcomings for the teaching of primary age pupils were pointed out, as were a number of building defects. We understand that a condition survey has been undertaken, which included costings of the repair and upgrading of the building to meet modern standards, although its details have not been made available in the current application. However, the findings of that document, taken together with the building standards currently recommended for primary schools, have led to the school being given priority status for central government funding from its Priority Schools Building Programme, for the rebuilding of schools deemed to be

inadequate for their purpose. From three possibilities that were considered in an options appraisal for upgrading the school, the demolition of the building has been selected in preference to its refurbishment - either as a stand-alone school or in addition to new build elements. We would advise that the evidence is made available which led to the selection of that option, to make the justification for the building's demolition, as opposed to its adaptation, publicly transparent and available for scrutiny.

Whilst others are better qualified to comment on the school's architectural suitability for the provision of primary school education, we do have considerable experience in the refurbishment of traditional buildings and their adaptation for alternative uses. Nothing that we have so far seen in the school makes us believe that it has reached the end of its economic life or is altogether incapable of beneficial use, even though it may no longer be ideally suited to its current form of educational use. Whilst it clearly has some building defects, these appear to derive more from lack of ongoing and adequate maintenance than from inherently poor design. The original range is a building of generally solid construction and robust, good quality materials, which contribute considerably to its local distinctiveness.

A question which we feel needs to be posed, therefore, is whether it is necessary for this building to be demolished in order for a new school to be constructed? The retention of the historic school building in a different use, and physically separated from a new school on the adjacent site, is not an option that appears to have been considered. The school site is an extensive one, which will provide a generous amount of external space once the new building is completed to a more compact footprint than the existing building. There is also ample provision of parking on the site. These factors, together with the adequate vehicle access to the site, could permit the possibility of two uses on the site, with adequate segregation between them. The historic school building could be adaptable to a number of new uses ranging from community, through commercial to potential residential. The possibility of retention of the former school house in a new use could also be investigated.

## Recommendation

In summary, in our view the case for demolition being the only viable option for Castle School has not been convincingly made in this application. Whilst not necessarily objecting to the construction of a purpose-built primary school on the Castle School site, we are not persuaded that the demolition of the historic school building is necessary to achieve that outcome, since the site appears generous enough to accommodate both buildings in different uses. There is no evidence within the application of such an option having been pursued. As a non-designated heritage asset, the significance of the school justifies considerable efforts being made to secure its retention, repair and reuse; which, according to paragraph 129 of the NPPF, should be taken account of by the local planning authority in order to "avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal".

Only if such efforts to avoid or minimise harm to the heritage asset prove unachievable, does the planning balance set out in paragraph 135 of the NPPF need to be carefully applied, in which case it is also the local authority's statutory responsibility to pay special attention to "the desirability of preserving or enhancing the character or appearance" of the conservation area in accordance with Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Please contact me if we can be of further assistance. We would be grateful to receive a copy of the decision notice in due course. This will help us to monitor actions related to changes to historic places.

## **6.0 REPRESENTATIONS**

12 letters of support have been received and 2 letters of objection. These are summarised below:

Support (Including from the Tiverton Civic Society)

- The existing school building is not fit-for-purpose
- The old school is not energy efficient. The new school will be eco friendly
- The old school is a relic from a bygone age
- The school will be more inclusive for non-able students
- The existing school is beautiful but impractical
- In an ideal world the school would have the money for a more attractive new build, however they have to do the best with the money they have
- It's great that investment is being made into the next generation in Tiverton providing them with an inspiring place
- I think that having a new school would make it nicer environment for all, including those that use it for after school clubs and in school holidays
- There is no money to refurbish the old building
- The costings were not available to review, however, the EFAs conclusion can be supported that the building is beyond its useful life
- The surrounding area is deprived in terms of education, skills and training. The existing school have attempted to drive up standards, however, real improvements can only be made by a new purpose built school
- Alternative uses on the site are likely to be unrealistic.

Objection (Including Peter Child on behalf of Devon Buildings Group)

- Castle School is an integral part of the Edwardian period, and the schools demolition will be a loss to this heritage
- The area is a Conservation Area. Any development should be in favour of conservation rather than demolition
- It is normally economically preferable to rehabilitate a building rather than to demolish and rebuild.
- It would be suitable to make this building suitable for primary school pupils
- The existing building has significant architectural merit
- The demolition of the building is contrary to Mid Devon's Policies
- The building makes a significant contribution to the Tiverton Conservation Area and Tiverton's History
- The sustainability aspects associated with demolishing and rebuilding have not been considered
- The economic case for the buildings demolition has not been made
- The proposed building is of inadequate architectural quality

## **7.0 MATERIAL CONSIDERATIONS AND OBSERVATIONS**

The existing site contains a range of buildings and extensions of varying architectural quality and size. The site is visible from William Street and Barrington Street to the West, Martins Lane to the North of the site, and from various elevated positions within/surrounding the town including Canal Hill. Residential properties surrounding the site will have views of the proposal. The existing site benefits from some tree

screening, particularly to the East, South and West. Some of the existing tree screening has been outlined for replacement. The existing site contains parking to the west and an alternative car park to the south. As part of the proposal, the parking to the South will be removed. The Tiverton Conservation Area dissects the site, and there are listed buildings to the North West and South East. The site is within Flood Zone One.

The main issues to be considered at this stage are:

- 1. Policy context**
- 2. Impacts on the historic environment**
- 3. Social Impacts (including impacts on neighbours)**
- 4. Environment Impacts**
- 5. Economic Benefit**
- 6. Design and Visual Impact**
- 7. Highways and transport**
- 8. Conclusions/planning balance**
- 9. Conditions**

#### **1. Policy context**

Mid Devon District Council's Local Development Framework (LDF) consists of the Core Strategy (2007), Allocations and Infrastructure Development Plan Document (2011), and the Local Plan Part 3 (Development Management Policies) (2013). The central strategy for development within the district is set out within the Core Strategy, the Allocations and Infrastructure Development Plan Document contains specific proposal allocations for development, and the Local Plan Part 3 (Development Management Policies) provides a range of policies for the consideration of planning applications.

This application is within the centre of Tiverton, and therefore policy COR13 'Tiverton' should be considered. COR 13 encourages high quality development and investment to Tiverton Town Centre, and notes development should reduce the risk of flooding and enhance walking and cycling opportunities within the town.

More specifically policy AL/TIV/13 of the Allocations and Infrastructure Development Plan Document details development criterion for a site in William Street which includes the western end of the Castle School site. This policy promotes the use of the site for residential accommodation. This application does not propose residential accommodation on the site. Policy AL/TIV/13 notes Sustainable Urban Drainage Schemes (SUDS) and archaeological investigations are required to mitigate against any potential impacts new development on the site may cause. Policy AL/TIV/13 is not being taken forward as a proposed site for residential development within the emerging local plan, and therefore the re-development of the school without new residential accommodation will not impact on the delivery of the emerging local plan.

Policy DM25 of the Local Plan Part 3 (Development Management Policies) deals more specifically with the development of community facilities, where it is noted:

"The development of new community facilities providing a local community benefit or environmental enhancement will be permitted where they are easily accessible by

the local community and well related to a settlement. Proposals for the redevelopment of existing community facilities that enables them to modernise, remain viable and continue to be retained for the benefit of the community will be supported.”

As this proposal impacts upon an important unlisted building within the Tiverton Conservation Area, policy DM27 of the Local Plan Part 3 (Development Management Policies) needs to be considered. Policy DM27 and part 12 of the National Planning Policy Framework deal with development affecting heritage assets. Policy DM27 notes the council will apply a presumption in favour of preservation in situ in respect of the most important heritage assets. DM27 proceeds to note that heritage assets and their settings are irreplaceable resources and therefore proposals should aim to conserve or enhance them. Where proposals are likely to cause harm to a heritage asset or its setting, the harm should be well justified and weighed against any public benefit. This will be discussed later within this report.

The National Planning Policy Framework notes that a presumption in favour of sustainable development should be seen as a golden thread running through decision making, taking into account economic, environmental and social considerations. This is reflected within policy DM1 of the Local Plan Part 3 (Development Management Policies), which notes the Council will take a positive approach in favour of sustainable development. The sustainable credentials of this scheme are discussed within the report below.

Policy COR2 of the Core Strategy 2007 and policy DM2 of the Local Plan Part 3 (Development Management Policies) require development proposals to be well designed, have a positive contribution to the surrounding area, a clear understanding of the site, use the site effectively and efficiently and encourage sustainable design including the use of SUDs.

Policy COR5 (Climate Change) of the Core Strategy 2007 seeks measures to minimise the impact of development on climate change in order to contribute towards national and regional targets for the reduction of greenhouse gas emissions. Such measures should include the development of renewable energy capacity where there is an acceptable local impact including visual, and on nearby residents and wildlife.

Policy COR7 (Previously Developed Land) of the Core Strategy 2007 notes development will be guided towards the most sustainable locations available, which maximise the social and economic benefits, minimise the loss of greenfield site to build development, and reduce the need to travel and make the best use of land and other resources.

Policy COR9 (Access) of the Core Strategy 2007 seeks to manage travel demand from development and reduce air pollution whilst enhancing road safety. Significant development must be accompanied by Transport plans. Policy DM8 of the Local Plan Part 3 (Development Management Policies) notes new development must provide appropriate levels of parking.

Policy COR11 (Flooding) aims to guide development to sustainable, low flood risk areas, whilst ensuring development does not increase the risk of flooding elsewhere.

Policy DM3 of the Local Plan Part 3 (Development Management Policies) requires proposals to demonstrate how sustainable design and construction methods will be used to achieve energy and water efficiency and resilience to climate change. New major commercial development will be required to achieve a BREEAM 'Excellent' standard.

In summary the site is situated within Tiverton and the proposal is considered to be a redevelopment of an existing community facility. The site itself is not without constraint; in particular the proposal is for the demolition of a heritage asset identified as an important unlisted building within the Tiverton Conservation Area Appraisal. Notwithstanding this, there is some 'in principle' policy support for the sites redevelopment. The material planning considerations are discussed below.

## **2. Impacts on the historic environment**

Castle School was built in 1902-1910 to the designs of William Ashford of Birmingham. The existing building is red brick with stone dressings, with the principal front elevation (south elevation in 'Wrenaissance style' described by Historic England as a handsome arrangement with rubbed brick window arches, stone quoins and door cases and carved wreaths in dentilled gables. The building was considered for designated listing by Historic England but did not reach the required criteria, though is considered to be of local interest. The later 1950s extensions are not considered to be of architectural merit.

The Tiverton Conservation Area was originally designated in February 1973. Various amendments have been made to the conservation area since its designation, including an extension to the conservation area in 2005 to include Castle Primary School amongst other areas. Castle Primary School is identified within the Tiverton Conservation Area Appraisal as an important unlisted building.

Due to a potential conflict of interest between the Mid Devon District Council Conservation Team and the proposed development and in the interests of transparency, it was considered appropriate to employ a 3<sup>rd</sup> party heritage adviser to provide a response to the application on behalf of the Council. Teignbridge District Council was appointed to provide a conservation response and a report has been produced by Teignbridge District Council's Design and Heritage Team Leader.

As previously noted, policy DM27 of the Local Plan Part 3 (Development Management Policies) notes, heritage assets and their setting are an irreplaceable resource. Accordingly the council will apply a presumption in favour of preservation in situ in respect of the most important heritage assets. Castle School is a non-designated heritage asset and is therefore not considered to fall within the category of one of the 'most important' heritage assets whereas the Tiverton Conservation Area (that includes the Castle School site) is a designated heritage asset and as such it is considered to be one of the 'most important' heritage assets.

The report produced by Teignbridge District Council concludes that the proposed replacement school building and loss of the existing Castle School is likely to result

in less than substantial harm to the conservation area but that this harm should be outweighed by an appropriate level of public benefit in accordance with criterion (d) of policy DM27.

Criterion (b) of policy DM27 requires 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. This is supported by paragraph 131 of the National Planning Policy Framework which notes:

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

The applicant submitted a heritage statement in support of the application. The original heritage statement was evaluated by Teignbridge District Council's Conservation Advisor, Historic England and the Devon Buildings Group who have all objected to the proposal and insufficiencies within the heritage statement. These objections focus on the limited content of the heritage statement in terms of considering the existing buildings significance, the public benefits the scheme could achieve, and noted insufficient evidence was provided to demonstrate the existing building was no longer suitable (or could be made suitable) for education, or be reused for an altogether different use thus avoiding the buildings demolition. To counter these objections the applicant provided revisions to the heritage statement, which included some information on the public benefits of the scheme, financial information relating to the improvement of the existing building, and a covenant which details the building must remain in an educational use.

During officer discussions with the Education Funding Agency and applicant it was apparent that the preferred option and funding pool for this project was for a replacement building rather than the redevelopment of the existing building. The revised heritage statement supports this, and it is noted "given that the new build option was selected as the preferred option, we did not develop detailed costs for refurbishment". Regardless of this statement, some costings have been provided by the applicant and were included as confidential information to support the revised heritage statement. The applicant agreed these figures could be provided to both Historic England and Teignbridge District Council Conservation team for consideration.

Objections to the scheme from Historic England and Teignbridge District Councils Conservation Adviser remain despite the additional information discussed above. The outstanding issues from the perspective of these consultees still associated with the application are considered to be:

- Limited information on why refurbishment of the existing building is unviable;



- The provided schedule of costs lacks detail and questions remain regarding the accuracy of estimated costs;
- Limited information relating to the public benefit of a new school;
- Lack of exploration of alternative uses on the site in order to retain the existing building.

Having regard to the last point; the applicant submitted a covenant attached to the land which states the land should be retained for an educational use. This has been challenged by Teignbridge District Council's Conservation Adviser and Historic England who notes the school site could be sold on with the agreement of the Charity Commission who may choose to use the money gained on the site for educational purposes or perhaps on other educational sites in Tiverton. Regardless of this point, the Local Planning Authority does not consider it necessary to promote the re-use of Castle School for an alternative use. This is because the loss in playground facilities and open space caused by having the existing school building and a new school on the site is likely to be harmful to the schools amenities, and the position of a proposed school on the site adjacent to the redeveloped school building is likely to be impractical. The Local Planning Authority also considers the town centre site for a primary school is a good and sustainable location, and would not want to promote its relocation.

The Local Planning Authority has given consideration to the comments made by Historic England and Teignbridge District Council's Conservation Adviser. An assessment is required of the impact of the loss of the non-designated heritage asset (an important unlisted building in the Conservation Area) against the public benefit arising from modern education facilities. The condition and suitability of the existing school facilities have been judged to be among the worse, hence priority school support for the erection of a new purpose built facility has been obtained. The existing school buildings and condition have been judged to be defective for primary education purposes. A new purpose built school has been designed to address these deficiencies and provide a modern, 21<sup>st</sup> century standard education environment.

Further clarification has also been sought from the applicant and Education Funding Agency (EFA) over the education benefit of the scheme and the likelihood of funding being gained a retention and renovation based alternative scheme. It has been made clear to the Local Planning Authority that public money via priority School Building Programmes will not be likely to be made available for renovation and reuse of the existing building. This option has been assessed the rejected by the EFA as part of due diligence associated with the existing Priority Schools Building Programme 1 award. The Local Planning Authority understands that refusal of the application will jeopardise this opportunity to provide upgraded facilities. Funding will not be made available for a retention and refurbishment lead scheme as this option has already been assessed and rejected by the EFA. The public benefits associated with the scheme would therefore not be realised.

In support of the applicant, it is noted within the application material that the cost of temporary accommodation for school students (which is not needed with a new school) prevents the existing building being retained and that an extensive analysis of the site and existing buildings demonstrates that refurbishing the existing school

buildings is not a preferred nor viable option. The Local Planning Authority would have wished for more detail on the 'extensive analyses' undertaken by the applicant.

The District Council has a duty to have special regard under section 66 of the Listed Buildings and Conservation Areas Act to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. The NPPF requires the effect of an application on the significance of a non-designated heritage asset to be taken into account in determining the application. Castle School is significant to the local area, although it is not prominent within the Conservation Area.

Criteria (c) of policy DM27 notes the Council will only approve proposals that would be likely to substantially harm heritage assets and their setting if substantial public benefit outweighs that harm or the requirements of paragraph 133 of the National Planning Policy Framework are met.

Paragraph 133 of the National Planning Policy Framework relates to the harm and loss of designated heritage assets and is inapplicable to this application as Castle School is a non-designated heritage asset. Paragraph 135 of the National Planning Policy Framework notes:

"The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale or any harm or loss and the significance of the heritage asset."

The relevant paragraphs in the National Planning Policy Framework are paragraph 134, which states less than substantial harm caused to a designated heritage asset (the conservation area) should be mitigated with public benefit, and paragraph 135, as shown above. In this case the harm the proposal causes to the Conservation Area and to Castle School itself should be weighed against the public benefits of the proposal. To ascertain the public benefit of the scheme it is important to also consider the social, environmental and economic impacts of the proposal. These are discussed below.

This proposal is not considered to cause harm to the setting of any listed building in accordance with section 66 of the Listed Buildings and Conservation Areas Act and policy DM27 of the LP3.

### **3. Social Impacts (including impacts on neighbours)**

The existing site is a primary school and therefore neighbouring dwellings are subject to existing noise and localised highways impacts. The proposed school building will be relocated toward to the southern boundary of the site. This is unlikely to cause significant impacts to the neighbouring dwellings, and the addition of modern insulation and sound proofing are likely to reduce the noise associated with the use of the building. The proposed building is a reasonable distance from any neighbouring dwellings, and is unlikely to create any impacts in terms of overbearing effects or a loss of light.

The applicant's heritage statement notes the proposed building will create positive social benefits in the form of increased classroom capacity, improved classroom facilities and an enhanced teaching environment. The existing building is cold, leaky and has poor facilities for non-mobile and disabled students. The new building will improve this. More open space will be provided from the proposal, as the overall massing of the proposed building is reduced. The proposal may also improve the sites community benefits in terms of improved facilities available for use by the wider community. The Local Planning Authority considers these benefits to be reasonable, and concludes the proposed school is unlikely to cause any impacts to the amenity of the neighbouring dwellings, and will create significant social benefits in terms of improvements to the schools inclusiveness and facilities. Having regard to social impacts, the Local Planning Authority considers the proposal is in accordance with policies DM2 and DM25 of the Local Plan Part 3 (Development Management Policies).

#### **4. Environmental impacts**

The site is within Flood Zone 1 and the Environment Agency raise no objection to the proposal in terms of flood risk. The applicant has submitted details of the surface water drainage arrangements which indicate the scheme does not utilise a surface water drainage scheme, instead an underground attenuation tank has been included. The applicant has submitted micro drainage calculations which detail how the surface water will discharge from the attenuation tank. An assessment of this has been considered by the County Councils Flooding Engineers, (The Lead Local Flood Authority), and no objection has been raised. There are not considered to be any significantly adverse flooding risks related to this development. A condition is recommended to ensure the proposed surface water flood measures are appropriately managed.

It is acknowledged within the application documents and by Mid Devon District Councils Environmental Health Officers that the demolition of the existing premises may contain potentially hazardous materials. Environmental Health has requested a condition to minimise the risk of hazardous materials creating contamination to the surrounding area. Subject to condition, the Local Planning Authority does not consider the site to have significant contamination issues.

The applicant has submitted a preliminary ecological appraisal produced by Thomson Ecology, dated November 2014. The findings of this survey note that the majority of the site has limited ecological value, however, the existing woodland on site would be suitable for nesting birds and two buildings on site have features suitable for roosting bats. In response to these findings the Local Planning Authority requested additional bat surveys to be undertaken. Seasons Ecology submitted bat surveys on behalf of the applicant, dated April and May 2015. This bat survey found evidence of roosting bats and nesting birds, and recommends the following mitigation:

- The installation of one traditional wooden bat box one Schwegler 2f bat box and one Schwegler 1FD bat box at various points within the site.
- Two Schwegler 1FR bat tubes integrated into the new building.

- An ecologist will be required to undertake a pre-demolition bird survey and if nesting birds are found (including if nests are in the process of being built), works will be postponed until the ecologist confirms the nests are no longer active.

An arboricultural survey has been submitted in support of the application, which should be read in conjunction with the submitted landscaping and planting plan, drawing number 1090 – PL10 Rev A. Mid Devon District Councils Tree Officer has commented on the application, and notes tree T19 (Horse Chestnut) and T38 (Common Lime) are worthy of protection. No objection is raised regarding the removal of other trees on the site. Unfortunately, due to the location of the proposed school, trees T19 and T38 are required to be removed. Two new specimen trees have been proposed to mitigate against the loss of the two category A specimen trees T19 and T38. The replacement trees will be a Horse chestnut and Common Lime. As the provision of these replacement trees could be secured via a planning condition, the Local Planning Authority do not consider there to be any significant arboricultural harm within the application scheme.

Environmental Health raises no objection to the proposal in relation to noise, light and air pollution. Considering this application is for a replacement building, the Local Planning Authority does not deem the proposed building will have significant environmental impacts in terms of pollution. The applicant has submitted a Construction Environmental Management Plan (CEMP). If this application were to be approved, the CEMP should be conditioned, which will ensure the construction stage of this proposal will not create any significant impacts on the surrounding environment.

The applicants note the proposed building will have improved energy efficiency, ventilation and lighting. This will help achieve positive environmental benefits in the form of reduced carbon emissions and meets with sustainable development principles. As noted within the objections, it could be argued the carbon emissions created by the demolition of the existing building and rebuilding of a new building will outweigh/limit the benefits of the new building. A carbon reduction statement has been submitted, however unfortunately this does not detail the lifetime benefits of the scheme in terms of carbon reduction.

An independent assessment commissioned by the Department for Education has identified the appropriate BREEAM rating for the construction of new schools based on whole life cost analysis. The Treasury require Whole Life Costing to justify investment decisions. DFE policy is to achieve BREEAM 'very good' for new schools. To ensure sustainable design and construction methods are incorporated into this proposal, a condition is recommended requiring the proposal to achieve a 'very good' BREEAM rating. Mid Devon Councils policy DM3 requires a BREEAM rating of excellent, however, in the opinion of the Local Planning Authority a refusal could not be justified on this basis.

The proposal has been screened to ascertain if it is development which constitutes the need for an Environmental Impact Assessment (EIA) in accordance with the Town and Country Planning (Environmental Impact Assessment) Regulations 2011. The proposal is not considered to be Schedule 1 development, and the

reconstruction of a school is not explicitly mentioned within Schedule 2. Notwithstanding this, the development is not in an environmentally sensitive location as defined by the EIA regulations and the size, characteristics, location and potential impacts of the scheme are not considered to constitute the need for an EIA.

Bearing in mind the above information, the Local Planning Authority considers this application is unlikely to have any significant environmental impacts, and is likely to produce some minor environmental public benefits in the form of reduced carbon emissions and energy efficiency in accordance with policies DM2 and DM25 of the Local Plan Part 3 (Development Management Policies).

## **5. Economic Benefit**

Some information regarding the economic benefits of the proposal are included within the revised heritage statement. These include reduced maintenance costs due to modern construction methods, reduced energy costs as a result of energy efficient lighting and heating, and reduced operations costs. These costs should have been included in the analysis of weighing up the cost of constructing a new building versus the costs of maintaining the existing building. The submitted information regarding the economic benefits of the proposal is limited and insufficient to enable the economic benefits of the proposal to be thoroughly understood. While the Local Planning Authority considers the scheme is likely to have some economic benefits, these benefits have not been clearly identified. The proposal is therefore only partly in accordance with policies DM2, DM25 and DM27 of the Local Plan Part 3 (Development Management Policies).

## **6. Design and Visual Impact**

The design of the proposed building has a modern, slightly industrial appearance. It is not an inspirational design, a view which is reflected in comments from Teignbridge District Council Conservation Advisor and objection letters, which suggest the design does not relate well with the surrounding buildings in terms or style, materials and character, and lacks innovation.

The Local Planning Authority considers the design lacks coherency, however, it is appreciated that the applicant has a limited budget and are constrained by the primary and secondary school design guidance produced by the Education Funding Agency. This guidance promotes good practice principles to be achieved within the set cost and area allowances. These principles relate to classroom sizes, accessibility, acoustic performance etc.

Policy DM2 of the Local Plan Part 3 (Development Management Policies) requires new development to positively contribute to the local character of the area including the conservation area, have a clear understanding of the site and create well integrated, visually attractive places. In this case it is concluded that the proposal causes some harm to the surrounding area, including the Tiverton Conservation Area, however, this harm is considered to be less than substantial. Any harm is reduced due to the site being reasonably well screened and the confined nature of the site. The most prominent views of the proposal would be from Canal Hill and the surrounding neighbours, including oblique views from Barrington Street.

As noted in policy DM27, where the design of a proposal is likely to cause harm to a heritage asset, this harm should be weighed against the public benefits of the scheme. In this case less than substantial harm has been identified to the setting of the conservation area, which is considered to be offset by the public benefits of the scheme as discussed above. It is suggested that if the application is approved then a condition regarding details of the materials to be used should be imposed. The applicants have provided block samples to the Local Planning Authority, however, these are not considered to be acceptable.

In conclusion, while the Local Planning Authority considers the design of the proposal is not ideal and results in less than substantial harm to the surrounding area including the Conservation Area.

## **7. Highways and Transport**

The application site is an existing school situated on Barrington Street. The site has good access to the town centre, public transport and surrounding residential housing. An informal car park to the south of the existing building is being removed, and the remaining car parking provision on the site will be 33 parking spaces, 3 disabled spaces and two minibus spaces.

An area to the East of the existing building will provide cycle storage for 32 bikes, and existing pedestrian access to the North and Western edges of the site will be retained. The Highways Authority was consulted as part of the application process and raises no objections to the proposal.

In the opinion of the Local Planning Authority, the demolition and reconstruction of this school will not result in any significant impacts on the local highways network, and a reasonable amount of parking is retained. The proposal is therefore in accordance with policy COR9 of the Mid Devon Core Strategy and policies DM2 and DM8 of the Local Plan Part 3 (Development Management Policies).

## **8. Conclusions/ the planning balance**

This application is for the replacement of a school within the centre of Tiverton. The redevelopment of the school site is considered to enable the school to modernise, remain viable and continue to be retained for the benefit of the community. The proposal is therefore in accordance with policy DM25 of the Local Plan Part 3.

As the proposal relates to the demolition of an important although unlisted building within the Tiverton Conservation Area, the Local Planning Authority would expect the submission of robust justification to support the of the building's loss, including evidence relating to public benefit. In this case some evidence has been submitted in favour of the buildings demolition however, Historic England, an independent conservation advisor (Teignbridge District Council) and the Devon Buildings Group recommend refusal on this basis that the case to demolish the building has not been sufficiently justified.

The application is likely to produce positive social benefits with some environmental and economic benefits. In this case the harm produced to the conservation area is

'less than substantial' although includes the loss of Castle School (an un-designated heritage asset). The public benefits the new school will provide are finely balanced against the harm the application would produce.

The design of the proposed new building does not equal the quality of the appearance of the existing building, however, the proposed design is not considered to be unacceptable.

If this application were approved then a new purpose built primary school building would be delivered for children within the local area whilst causing limited harm to the conservation area. If refused then a new school on this site is unlikely to be built in the near future. Advice from the Education Funding Agency has been sought with the response as follows:

- Decisions around funding and project allocation are made at a high level within Government/The Education Funding Agency
- This project is on Priority Schools Building Programme 1 (for the building of a new school)
- Current funding is predicated on the basis of a new building as this most viable solution on technical, cost and other grounds.
- Fundamentally on Priority Schools Building Programme 1, the provision of the new school accommodation must be completed by the end of 2017. Associated completion works such as demolition, landscaping etc. can run beyond this date.
- The applicants are currently able to hit this date assuming planning permission is granted.
- If Castle School and other schemes cannot hit this programme date they will have their funding withdrawn.
- All Priority Schools Building Programme 2 schemes (For the refurbishment of existing schools) have been identified and the programme commenced, running to 2022.
- Projects not completed under Priority Schools Building Programme 1 would not automatically be funded under Priority Schools Building Programme 2.
- Outstanding Priority Schools Building Programme 1 schemes potentially would be considered on their merits together with unsuccessful scheme applications on Priority Schools Building Programme 2 – for funding. This would be on the basis that should funding become available, (by for example other schemes dropping out of the Priority Schools Building Programme 2 programmes), and these substitute schemes then could take their place –ranked on their comparative merits.
- As part of this process or reviewing the merits of the scheme vs. other schemes to get funding - the EFA would need to carefully reconsider in the first instance if funding would be made available at The Castle for previously discounted options that have been deemed not to be the best or most viable options especially when viewed over the longer term.

The conclusions of Heritage England and the Council's Heritage adviser indicate a belief that there is still the potential for the retention and renovation of the existing building. Clarification over this has been sought. Renovation of the existing building

has been rejected by the Education Funding Agency. Funding for the provision of upgraded education facilities at the school are likely to only be available in connection with a new build project. In the absence of this EFA support, there will not be sufficient means to fund a scheme. The Local Planning Authority has clearly been advised by the applicant and Education Funding Agency that retention and renovation is not an option.

It is clear that the scheme results in the unfortunate loss of an important non designated heritage asset, for which statutory consultees consider there to be insufficient justification and accordingly recommend refusal. Your officers consider that this must be weighed against the public benefits of the scheme and have received clarification that the educational benefits will not be realised by retaining the building as this is not an option that will attract the required funding support. Whilst recognising that harm to the non-designated heritage asset, your officers consider on balance that the application should be approved.

### **Conditions**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice.
3. The development hereby permitted shall be carried out in accordance with the submitted Construction Environmental Management Plan, titled 'Construction Environmental Management Plan (CEMP) for Castle Primary School'. The Construction Environmental Management Plan shall be adhered to at all times during the construction phase of the development.
4. The development hereby permitted shall be carried out in accordance with the submitted surface water drainage strategy, detailed on plan references 'School Building Drainage Strategy' and 'Storm Exceedance Routes'. Once installed, the surface water drainage scheme will be permanently managed and maintained in accordance with the submitted Proposed Surface Water Drainage Scheme Management and Maintenance Plan.
5. The development shall be carried out in accordance with the recommendations set out within the submitted bat survey, produced by Seasons Ecology dated April and May 2015. Mitigation measures including the installation of one traditional wooden bat box, one Schwegler 2f bat box, one Schwegler 1FD bat box, and two Schwegler 1FR bat tubes will be installed on site prior to the demolition of the existing Castle School buildings and so retained.
6. The landscaping scheme detailed on drawing number '1090 – PL10 REV A' shall be carried out within 9 months of the substantial completion of the development, and any trees or plants which, within a period of five years from



the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species. Once provided, the landscaping scheme shall be so retained.

7. Prior to their use on site, samples and details 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. Such approved materials shall be so used and retained.
8. Prior to demolition of the existing buildings on site commencing, a works plan and risk assessment shall be submitted for approval to the Local Planning Authority. 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 potentially hazardous materials should be assessed.
9. The approved building shall be constructed to achieve a Building Research Establishment Environmental Assessment (BREEAM) 'Very Good'

### **Reasons for Conditions**

1. In accordance with the provisions of Section 51 of the Planning and Compulsory Purchase Act 2004.
2. For the avoidance of doubt and in the interests of proper planning.
3. To ensure the development will not result in unacceptable harm to the environmental amenities of the area, in accordance with DM2, DM7 and DM25 of the Local Plan Part 3 (Development Management Policies).
4. To ensure appropriate measures are taken to manage surface water in accordance with policies DM2, DM7 and DM25 of the Local Plan Part 3 (Development Management Policies) and COR11 of the Mid Devon Core Strategy 2026.
5. To ensure any nature conservation interests are preserved in accordance with policy DM2 of the Local Plan Part 3 (Development Management Policies)
6. To ensure that the development makes a positive contribution to the character and amenity of the area in accordance with policy DM2 of Local Plan Part 3: (Development Management Policies).
7. To ensure the use of materials appropriate to the development/works in order to safeguard the visual amenities of the area, and character and appearance of the adjacent conservation area in accordance with policy DM2 and DM27 of the Local Plan Part 3.

8. To ensure the development will not result in unacceptable harm to the environmental amenities of the area, in accordance with DM2, DM7 and DM25 of the Local Plan Part 3 (Development Management Policies).
9. To ensure the development remains within the sustainable design principles set out within Policy DM3 of the Local Plan Part 3 (Development Management Policies).

### **Reason for approval**

Although the loss of the existing historic school building is harmful due to it being an important undesignated heritage asset and a building of value within the Conservation Area; in the opinion of the Local Planning Authority there is no realistic prospect of delivering the public benefits that would arise from the scheme (particularly in relation to the upgrading of the facilities and associated modern education environment) if the building were to be retained and renovated. On balance the proposal is therefore considered acceptable despite being contrary in part to policy DM27 of the Local Plan Part 3 (Development Management Policies) and paragraph 135 of the National Planning Policy Framework. The proposed development is considered to have an acceptable impact in terms of the Conservation Area, highways, residential amenity, ecology, design and appearance and to comply with Mid Devon Core Strategy (2007) policies COR 1, COR 2, COR 7, COR 9, COR 11 and COR 13; Local Plan Part 3 (Development Management Policies) (2013) policies DM1, DM3, DM4, DM8, DM25 and DM28.

### **Contact for any more information**

Mr Kristian Evely, Assistant Planning Officer  
01884 234267

### **Background Papers**

None relevant

### **File Reference**

16/00352/MFUL

### **Circulation of the Report**

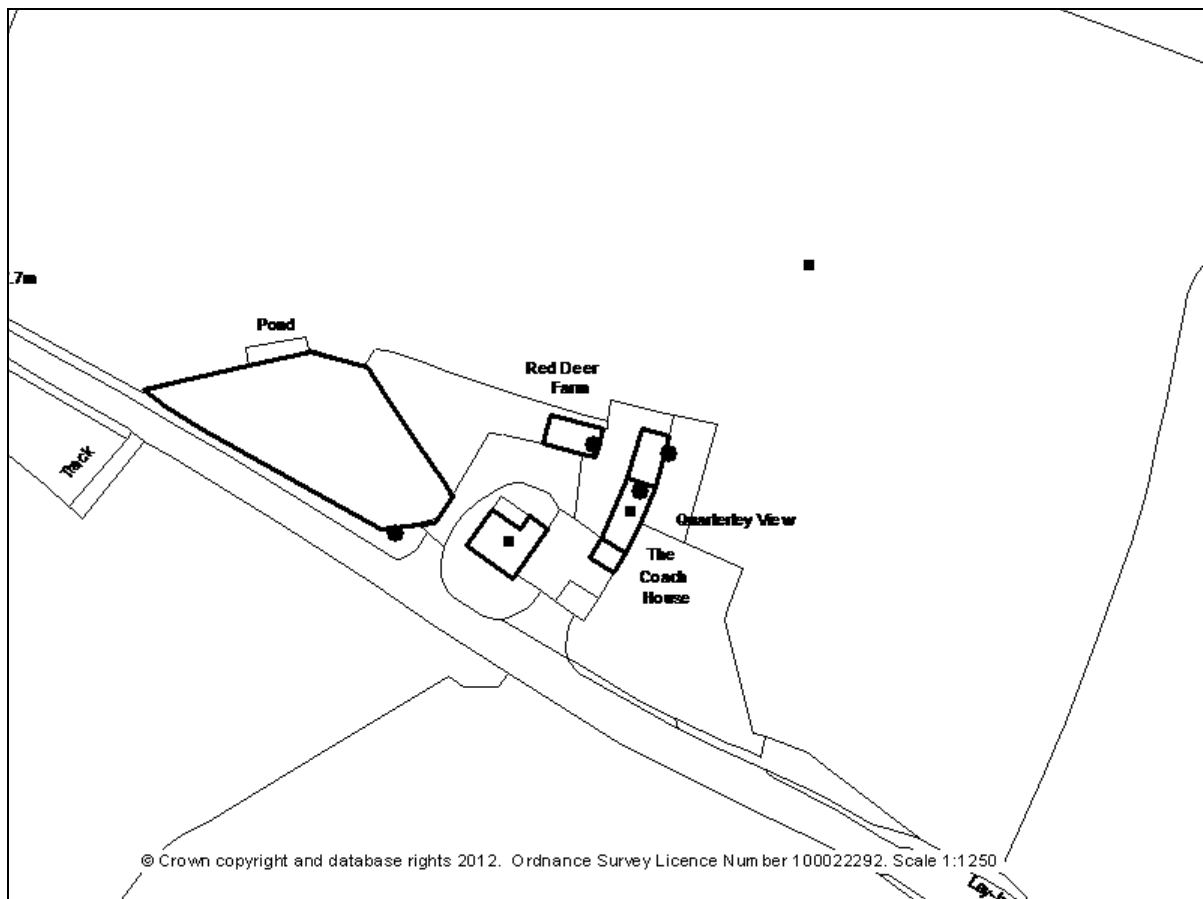
Cllrs Richard Chesterton  
Members of Planning Committee

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

**Application No.** 16/00001/TPO

**Grid Ref:** 123511 : 289165

**Location:** Red Deer House  
Oakford Tiverton  
Devon



**REPORT OF THE HEAD OF PLANNING AND REGENERATION – JENNY CLIFFORD**

**CONFIRMATION OF TREE PRESERVATION ORDER 16/00001/TPO  
RED DEER HOUSE, OAKFORD**

**Reason for Report:**

To consider whether a Tree Preservation Order should be confirmed in light of the objection that has been received.

**RECOMMENDATION**

That the Tree Order be confirmed.

**Relationship to Corporate Plan:**

The proposal impacts upon the Corporate Plan Priority 'Caring for our Environment'.

**Financial Implications:**

None.

**Legal Implications:**

None.

**Risk Assessment:**

None.

**Consultation carried out with:**

1. Those with an interest with the land.

**1.0 DESCRIPTION/HISTORY**

- 1.1 The tree preservation order was made following an expression of concern that the trees were under threat due to the building and landscaping work being carried out at the property.

A woodland order was made to protect the entire small woodland. The woodland is an important feature in the landscape and typical for the area being a small mixed species copse. It is clearly visible from the B3227, in both directions. The amenity value of the woodland is considered to be good enough to warrant protection by the Tree Preservation Order.

An objection was received following the serving of 16/00001/TPO at Red Deer House, Oakford.

## **2.0 AMENITY EVALUATION**

- 2.1 For the surrounding area the trees have significant amenity value. Following an amenity evaluation of the trees it was deemed necessary to place further protection on them, in the form of a Tree Preservation Order. This was served on 19<sup>th</sup> February 2016.

## **3.0 REPRESENTATIONS**

- 3.1 The following summarised objection was received from the occupier of Red Deer House:
1. The trees are under no threat and therefore no TPO required.
  2. Ensuring that the trees are safe to highway, utilities and sewerage treatment unit, will be difficult if TPO imposed.
  3. Trees are under good management with expert advice sought – so no TPO required.

## **4.0 MATERIAL CONSIDERATIONS AND RESPONSE TO THE OBJECTION**

- 4.1 Whether the trees are under threat – it is clear that there was no real intention to destroy the trees on the site but the piling of building material and soil is likely to have a detrimental effect on the health of the trees. This has been discussed with the tree owners and action is due to be taken, by removing built up soil and rubble. Ground disturbance poses a very serious threat to trees and while the effects may not be immediately obvious it can prove to be detrimental in the longer term. Some clearance of smaller scrubby species has been done and the thinning out of overcrowded areas by removing smaller sycamore trees.
- Simple inspection is the best way to ensure that trees are kept in a safe condition, an inspection by a suitably qualified person will highlight any remedial action required. The TPO does not affect the duty of statutory undertakers. The sewerage treatment plant in the garden to the west of the property has now been suitably cleared and this open area can be easily maintained.
  - At the time of the MDDC Tree Officer site visit there seemed to be little essential tree work necessary. The unnecessary pruning, topping of trees is easily controlled with the TPO. Mid Devon District Tree Officer disagrees with the owners appointed arborist, regarding the need to prune the large Oak tree discussed in the objection letter because the tree appeared to be in good health and suitable for the setting.

- No application is required to remove dead or dangerous material or trees from the woodland. In this environment, ideally deadwood would be left in situ where it was safe to do so, as it provides a range of habitats, increasing biodiversity. The Tree Preservation Order does not serve to stop the good management of woodland.

## **5.0 CONCLUSION**

- 5.1 The woodland is a good and suitable landscape feature and as such its protection is justified. The Tree Preservation Order does not serve to stop good management. It is recommended that the Tree Preservation Order be confirmed.

**Contact for any more information**

Cathy Lynch 01884 234304

**Background Papers**

None

**File Reference**

16/00001/TPO

**Circulation of the Report**

Cllrs Richard Chesterton  
Members of the Planning Committee