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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, 3 August 2016 at 2.15 pm

The next ordinary meeting of the Committee will take place on Wednesday, 7 September 2016 at 2.15 pm in the Phoenix Chamber, Phoenix House, Tiverton

STEPHEN WALFORD

Chief Executive
26 July 2016

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

A G E N D A

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

1 APOLOGIES AND SUBSTITUTE MEMBERS

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

2 PUBLIC QUESTION TIME

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

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

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

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

4 CHAIRMAN'S ANNOUNCEMENTS

To receive any announcements the Chairman may wish to make.

5 **ENFORCEMENT LIST** *(Pages 23 - 44)*

To consider the items contained in the Enforcement List.

6 **DEFERRALS FROM THE PLANS LIST**

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

7 **THE PLANS LIST** *(Pages 45 - 118)*

To consider the planning applications contained in the list.

8 **THE DELEGATED LIST** *(Pages 119 - 134)*

To be noted.

9 **MAJOR APPLICATIONS WITH NO DECISION** *(Pages 135 - 136)*

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

10 **APPEAL DECISIONS** *(Pages 137 - 140)*

To receive for information a list of recent appeal decisions.

11 **APPLICATION 14/00881/MOUT - OUTLINE APPLICATION FOR A MIXED USE DEVELOPMENT COMPRISING UP TO 700 DWELLINGS, 22,000 SQUARE METRES OF B1/B8 EMPLOYMENT LAND, CARE HOME, PRIMARY SCHOOL AND NEIGHBOURHOOD CENTRE WITH ASSOCIATED ACCESS INCLUDING A LEFT IN LEFT OUT JUNCTION ON THE WESTBOUND A361 AND ACCESS AND EGRESS ONTO BLUNDELLS ROAD AT LAND EAST OF TIVERTON, SOUTH OF A361, AND BOTH NORTH AND SOUTH OF BLUNDELLS ROAD, UPLOWMAN ROAD, TIVERTON** *(Pages 141 - 150)*

Report of the Head of Planning and Regeneration regarding proposed amendments to the draft S106 and planning conditions approved at a previous meeting.

12 **APPLICATION 14/01332/MOUT - OUTLINE APPLICATION FOR A MIXED USE DEVELOPMENT COMPRISING OF A PRIMARY SCHOOL AND PRE-SCHOOL WITH ANCILLARY FACILITIES INCLUDING SPORTS PITCH AND PARKING AND TURNING AREA; ERECTION OF UP TO 25 DWELLINGS WITH PARKING AND OPEN SPACE - LAND AT NGR 288080 098230 EAST OF STATION ROAD, NEWTON ST CYRES** *(Pages 151 - 162)*

To consider a report of the Head of Planning and Regeneration regarding this application.

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:

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MID DEVON DISTRICT COUNCIL

MINUTES of a **MEETING** of the **PLANNING COMMITTEE** held on 6 July 2016 at 2.15 pm

Present

Councillors

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

Also Present

Councillors

Mrs J B Binks and Mrs J Roach

Present

Officers

Jenny Clifford (Head of Planning and Regeneration), Tina Maryan (Area Planning Officer), Christie McCombe (Area Planning Officer), Daniel Rance (Principal Planning Officer), Keith Palmer (Senior Enforcement Officer), Jo Cavill (Enforcement Officer), Joanna Williams (Enforcement Officer) and Sally Gabriel (Member Services Manager)

35 **APOLOGIES AND SUBSTITUTE MEMBERS**

There were no apologies.

36 **PUBLIC QUESTION TIME 00-03-00**

Mrs Vinton referring to Item 5 (Red Linhay) on the agenda spoke regarding traffic monitoring, I understand that difficulty of monitoring traffic to the site as the traffic statement refers only to the number of loads being delivered and not to traffic as a whole, thus excluding general farm traffic. The number of proposed traffic movements per annum is given by the applicant as 784 but nowhere can I see this figure in Condition 10. Surely, without this figure, monitoring of log books or weighbridge records is futile? And, if this figure were to be exceeded, what enforcement action would be taken?

Energy Output – GFL have expressed concern regarding Condition 23 relating to the output from the plant. As it stands, an exceedance of just one kw would put them in breach. If the wording was changed to “an average output of 500kw” over a given period, surely this would allow for any day to day fluctuations? During a recent conversation with Mr Clapp he told me that he will be responsible for the day to day operation of the plant and that he can easily increase the energy output up to 1MW using feedstock from his own farm. This is, apparently, why the plan is the size it is and why 2 CHP units are on site. GFL, however state that the second CHP unit is only for back up and maintenance purposes. If the second unit remains onsite, is there anyway that it could be made impossible to use both units simultaneously?

Mr White again referring to Item 5 (Red Linhay) on the agenda stated that at the last meeting we were shown a drawing, number WIN01_RED LINHAY2_e10V_001 Fig 3 south elevation overlay. It was explained that this drawing was an overlay of the original granted permission (shown in black) compared with the new application (shown in red). The purpose being to show how moving the digester to its new position down the slope would result in the overall height of the digester being lower despite its increased size to allow for a 1000kw capacity. Unfortunately, what has been built does not match the drawing. Yet again, the application does not match the actual.

In the drawing the proposed dome is a shallow arc, unlike the original application which is a hemisphere. What has been built is clearly a hemisphere as all the photo's taken by the planning officer clearly show. This results in the final height being greater than claimed in the application.

The technical report presented at the last meeting confirmed this, saying that the dome was at least equal to or higher than the adjacent farm buildings, despite the application claiming that it would be lower. This is clearly yet another example of GFL's cynical and deceitful approach to planning applications. Will the committee confirm that GFL will be asked to ensure the finished construction will match the application.

Cllr Mrs J B Binks referring to Item 6 (Enforcement), Item 5 Furzeland stated that the landowners were desperate to comply with the planning permission but that things had got in the way including bats. She asked whether the committee could exercise some discretion with regard to the period of compliance for a further 4-6 weeks. The reason for the building being higher than expected was that the two historic vents had been incorporated into rather than out of the construction, they have been rather foolish but this was not deliberate. Please consider extending the period of compliance so that the bat issue can be dealt with.

Dr Bratby referring to item 5 (Red Linhay) on the agenda stated that at the previous meeting reference had been made to report by Steve Quartermaine regarding planning policy to clamp down on unauthorised development, and that unauthorised development was a material consideration, however within the report I find no reference to this material consideration. (1) Have the officers given weight to this material planning consideration, (2) if not why not. (3) if the answer to questions (1) is no should be officer's recommendation be reconsidered? (4) with regard to Condition 22 can it be clarified what the first operation is, as there has been hundreds of movements before the operations of the plant commences.

Mr Scott again referring to Item 5 on the agenda referred to a recent court case regarding pollution from AD plants and the fines/costs that had been incurred. He stated that GFL had total disregard to the management of other sites and had ignored the planning permission at Red Linhay. If an incident occurred in this location there were concerns regarding the canal. How can the company be trusted to build any plant, there is disregard for any record keeping, how can the company be trusted. In view of this modified application, please refuse.

Mr Pilgrim referring to Item 5 on the agenda stated that it is difficult to challenge figures that keep changing and considering the trustworthiness of the applicant over

the last 7 months, it is difficult to make a sound decision on proposals that are changeable, I therefore ask you to consider not approving this application.

Mr Wright referring to Item 12 (Exeter Road Silverton) on the agenda stated that he had spent a lot of time trying to get the application right and had had several meetings with planning officers, the reason there were 2 properties proposed on the site was that a single dwelling would have been expensive to purchase. He had noted the concerns of the Conservation Officer and requested that he be allowed to revise the scheme to take into consideration the Conservation Officer's remarks.

The Chairman read a set of questions from Dr Bell referring to Item 15 (Waddeton Park) on the agenda:

This application implies that a specific section of land is involved for purchase by MDDC whereas the original outline application sought to spread affordable housing throughout this development.

Has MDDC's policy changed concerning locations for affordable housing?
If so, which specific section of land on the Waddeton Park site is required by MDDC?

What will be the total cost of the land to MDDC including the £120,000 contribution?

How much does MDDC expect to spend on the 70 houses they wish to build?
When does MDDC propose to commence the work to build the properties?

Can we, the tax payers, afford this approach at this present time?

When the answers to the above are provided, does the Planning Committee believe it is a good idea to support this approach to the provision of affordable housing?

The Chairman stated that answers to questions would be provided when the items were discussed.

37 MINUTES OF THE PREVIOUS MEETING (00-20-04)

The minutes of the meeting held on 8 June 2016 were approved as a correct record and signed by the Chairman.

38 CHAIRMAN'S ANNOUNCEMENTS (00-20-35)

The Chairman had the following announcements to make:

- Item 14 (Chettiscombe Estate) had been deferred to allow further consultation to take place.
- She welcomed Mr Keith Palmer (Senior Enforcement Officer) to his first meeting.
- She reminded Members that the planning tour of the district would take place on 14 July.

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

The Committee had before it a further *report of the Head of Planning and Regeneration following discussions at the previous meetings where Members had requested that a full set of conditions be produced to include monitoring arrangements as follows:

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

She outlined the contents of the report highlighting the site location plan and the additional conditions that had been proposed and that how they must meet all 6 tests as set out in the National Planning Policy Framework, she also highlighted a previous appeal decision which stated that all conditions must be seen to be reasonable and to not require an intolerable level of supervision. With regard to vehicle movement and weight recording she highlighted the amendments made to Condition 10 which considered the weighbridge data. Vehicle monitoring equipment was addressed through an additional condition 22, she added that the entrance did not just serve the AD plant but also an agricultural building and therefore there could be some confusion as to the vehicle movement on the site. Control of digestate destination was addressed through Condition 10. With regard to records of power output, she had visited the site and there were 2 CHP units on site, the application was for only 1 unit, the second plant on the plan was where the office and containers should be. The applicant had stated that a second unit was on site in order that maintenance could take place on the original CHP unit. She felt that the second CHP unit was unnecessary and therefore this had been covered by a separate enforcement recommendation to service a notice to remove the 2nd CHP unit. With regard to access to the monitoring systems, there was a need to consider necessity and reasonableness. A monitoring liaison group would have be voluntary and should not be conditioned, the applicant had been contacted and was willing to set up such a group.

In response to questions posed in Public Question Time:

- Traffic movements and the number of loads, this was covered within condition 2 and 10.
- Energy Output of the plant – condition wording was provided, nut Members would need to consider if this met the test for conditions.
- The overlay plan, this was the plan prepared by the Council’s consultants. She considered the profile of the dome to appear flatter due to its base being shown on drawings as obscured behind a gantry. The drawing was therefore unclear, however she had no issue with the profile of the dome. The levels

were different as the ground levels had been reduced, therefore that was the difference on the plan. However she would expect compliance with the details.

- With regard to unauthorised development being a material planning consideration, Dr Bratby was right it is a material planning consideration, but that the policy as set out in the Chief Planner's letter applied to all new applications received from August 2015, the current application was dated 17 July 2015. It therefore predated that advice and was rightly not taken into account in this application.
- With regard to what the first operation is, that would be the firing up of the AD plant and the generation of power.
- Pollution issues, she was aware of this information and informed the meeting that the Environment Agency were the investigating body and that any issues with regard to pollution would be covered until the Environmental permit.
- Trustworthiness of the applicant, planning permission was granted for the development and not to the applicant.

Discussion took place regarding:

- The positioning of a barrier to funnel vehicles to go over the weighbridge.
- The 2 CHP units on the site and whether 1 additional unit would be required to cover maintenance downtime.
- Ultimate destination and original source of feedstuff for the plant
- Total movements to and from the site
- Recording of outputs
- Additional access to the site and notice required for spot checks.

RESOLVED that planning permission be granted subject to:

- a) Conditions set out within the report with amendments and additional conditions sought by Members; to include:
 - (i) Condition 10 as amended with additional amendments to refer to original source and ultimate destination, gross and net weights;
 - (ii) Additional conditions 22, 23 and 24;
 - (iii) Condition 23 be amended to require power output not to exceed and average of 500kw over a quarterly period;
 - (iv) Conditions to be further amended to include the erection of a physical barrier to funnel any traffic over the weighbridge.

(Proposed by Cllr Mrs H Bainbridge and seconded by Cllr B A Moore)

(Vote 6 for: 5 against)

- b) That the Legal Services Manager be authorised to take any appropriate legal action, including the service of an enforcement notice or notices seeking the removal of the second combined heat and power plant (CHP) from the site. In addition, in the event of the failure to comply with any notice served, to authorise prosecution, direct action and/or authority to seek a court injunction.

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

- c) That Officers assist in the establishment of a monitoring liaison group and that the applicant facilitate the setting up of such a group.

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

Notes:

- (i) Cllrs Mrs F J Colthorpe declared a personal interest as she had recently met Mr Clapp at a social event;
- (ii) Cllr D J Knowles and R F Radford declared personal interests as the landowner and some of the objectors were known to them;
- (iii) Cllrs R J Dolley, B A Moore and R L Stanley made declarations in accordance with the protocol of Good Practice for Councillors in dealing with Planning Matters as they had received correspondence regarding the application;
- (iv) Cllrs Mrs C Collis, R J Dolley, F W Letch, R F Radford and R L Stanley requested that their vote against the decision in (a) be recorded;
- (v) The following late information was reported: Reference: Conditions Planning Application 15/01034/MFUL

On behalf of Greener for Life Energy, the applicant for the above planning application, I would like to express our objections to the proposed additional planning conditions (Numbers 22, 23 and 24) contained within your report to the Planning Committee 6th July 2016.

These additional conditions do not fully meet the tests required for conditions these being:

Necessary
Relevant to planning
Relevant to the development to be permitted
Enforceable
Precise
Reasonable in all other respects.

Condition 22:

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

Reason – In the interest of highway safety and consideration of the impacts on the environment, neighboring residents due to the number of

movements to and from the site and in order to accord with policies DM5 and DM22 of the Local Plan Part 3 (Development Management Policies).

We do not feel that this condition meets the necessary or reasonable tests required for planning conditions.

The proposed changes to condition 10, which we offered at our site visit on the 16th June 2016 and is contained in your proposed conditions as condition 10, provide full control of the feed stocks arriving into the site and digestate being removed by road - through the use of weighbridge and log book records. These records can be compared to the Triolet weight records (item V condition 10) to ensure that imported tonnage of feed stock match those being processed. In addition the inclusion of the planning statement and transport plan contained in Condition 2 - *approved reports and statements listed in the schedule on the decision notice* detail the number, type and location of all feedstock and digestate vehicle movements.

As such condition 22 is not necessary as conditions 2 and 10 detail and monitor all transport movements. Due to the discussed layout of the site in relation to the farm storage buildings and their operations and the adjacent farmhouse, all of which use the same site entrance and farmyard, the installation of an electronic monitoring system is impractical, onerous and unreasonable to implement.

It would not be appropriate to impose such a condition in the determination of the application

Condition 23:

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

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

Given that there are no changes in transport movements proposed in this application, from the current consent, the addition of this condition does not control or affect any impact on local amenity.

Moreover the condition runs counter to local and national policy on producing energy from renewable sources. The impacts of the development have been identified and controlled, the level of power generation is not a planning consideration. The output of the digester should not be restricted by condition, as its output is effectively controlled by the restrictions on the feedstock materials imported. If on the basis of the agreed feedstock the plant can operate more efficiently and generate more electricity based on the same material being imported then this should be supported as it is a more effective means of creating renewable energy.

This and the fact that the condition restricts the commercial viability of the development mean that it does not meet the reasonable test or is it supporting planning policy.

Condition 24:

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

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

The reason for the inclusion of this condition is not clear which parameters and limitation it refers to. Given the concerns of local residents and committee members we assume that it relates again to the impact of transport and the output of the plant. The former is monitored, controlled and can be enforced through conditions 2 and 10 (as detailed above) and the later has no relevance to the impact on local residents and is therefore not reasonable to impose. As such this condition represents a further unnecessary and burdensome required on the operator and the local planning authority.

Overall

With the inclusion of these three conditions (22,23,24) there are a total of 24 attached to this application. Our discussions with Mr Rance have indicated that the Council has a policy of keeping the number of conditions for planning applications a low as possible - generally below 5. Given the relatively small size of this developed this large number of condition is, in our view, unnecessary and onerous on both Greener for Life as an operator and the LPA as the enforcement body. As highlighted in the statement these new conditions duplicate the conditions and controls already proposed and as such are not required.

The committee report refers to a recent appeal case (appeal ref APP/T4210/A14/2224754) where both the inspector and Secretary of State concluded that a number of proposed conditions were unreasonable and did not meet all six tests. A number of similar conditions to those proposed in 23, 24 and 25 where rejected because they would be difficult for the local planning authority to monitor and require an intolerable level of supervision.

In the committee report it states that officers have been mindful of this appeal decision and the comments within it on conditions in drawing up their recommended list of conditions. However in our view these three additional conditions do represent an intolerable level of supervision and, in places, duplicate other conditions. If conditions 23, 24 and 25 are imposed we will be applying for them to be removed.

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

40 ENFORCEMENT LIST (1-37-00)

Consideration was given to the cases 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/15/00100/UCU – Unauthorised material change of use of land from agriculture to a mixed use comprising agriculture and use as a caravan site for human habitation – land and buildings at NGR 306655 224226 (Kerrells), Burlescombe***).

The Enforcement Officer outlined the contents of the report providing Members with photographs from the site and stating that the landowner had applied for a certificate of lawful use which had been refused and appealed. Consideration was given to the period for compliance which would allow those in residence to seek alternative accommodation.

RESOLVED that the Legal Services Manager be given delegated authority to issue a change of use enforcement notice, requiring the cessation of use as a caravan site and the removal of 2 x caravans from the land, together with all domestic paraphernalia associated with the use of the land as a caravan site. In addition, that legal action deemed appropriate be taken including prosecution or Direct Action in the event of non-compliance with the notice.

(Proposed Cllr P J Heal and seconded by Cllr J D Squire)

- b) No. 2 in the Enforcement List (***Enforcement Case ENF/13/00036/UDUR – unauthorised removal of timber windows and replacement with uPVC windows in a Grade II listed building – 5 Ways Lane, Cullompton***).

The Enforcement Officer outlined the contents of the report stating that this issue had previously been discussed in November 2013, at that time, the issue had been deferred to allow the property owner to submit an application, an application was submitted but not implemented and had now lapsed. The previous authority did not cover this and therefore permission was now sought to issue a listed building enforcement notice.

RESOLVED that the Legal Services Manager be given delegated authority to issue a listed building enforcement notice, requiring the removal of the two uPVC windows on the elevation, and the replacement with wooden windows to a specification provided by the Local Planning Authority. In addition that legal action deemed appropriate be taken to include prosecution or direct action in the event of non-compliance with the notice.

(Proposed by the Chairman)

c) No. 3 in the Enforcement List (***Enforcement Case ENF/15/00042/UNLD – the condition of the land has been allowed to deteriorate causing adverse effect on the visual amenity of the area – Land at NGR 295600 102934, Fore Street, Silverton.***)

The Enforcement Officer outlined the contents of the report stating that she had been working with the landowner and local residents to rectify the situation, which had been successful. Most of the works that would be required had been completed. The appearance of the site would be monitored.

It was therefore

RESOLVED that no further action take place at the present time.

(Proposed by the Chairman

Note: Cllr Mrs J Roach (Ward Member) stated that she was satisfied that no further action be taken and praised the work of the Enforcement Officer.

d) No. 4 in the Enforcement List (***Enforcement Case ENF/11/0034/UCU – Unauthorised material change of use of the land from use as a Care Home (Use Class C2) to a mixed use comprising Care Home and use as a caravan site – Langford Park Ltd, Langford Road, Langford, Newton St Cyres.***)

The Enforcement Officer outlined the contents of the report stating that the matter had been discussed by the Committee in February 2016, when authorisation had been granted for the issue of an enforcement notice requiring the removal of the four caravans. A recent review of the site had highlighted the fact that structures and domestic paraphernalia had not been included in the original report and therefore required additional authorisation.

RESOLVED that the Legal Services Manager be given delegated authority to take any appropriate legal action, including the issuing of a change of use enforcement notice, requiring the cessation of the use of the land as a caravan site and for the removal from the land of x 4 caravans, shed(s), decking/veranda, roads and domestic paraphernalia associated with the use of the land as a caravan site.

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

e) No. 5 in the Enforcement List (***Enforcement Case ENF/16/0132/LIS – without listed building content the execution of works for the alteration and extension of the listed building namely the erection of a single storey extension and alterations to the exterior of the building – Curtilage listed barn at NGR 278425 103453 (Barn Orchard) adjacent to Higher Furzeland, Furzeland Lane, Coplestone.***)

The Enforcement Officer outlined the contents of the report stating that in February 2015 Planning permission and listed building consent had been granted for the conversion of the former threshing barn to a dwelling and the erection of a replacement extension. He outlined the works that had taken place informing the meeting that none of the conditions had been discharged, his attention had also

been drawn to the fact that the extension had been erected on one side of the former threshing barn which was not the one shown on the approved plans.

Consideration was given to:

- the unauthorised works and whether an extension of time would allow for the works to comply with the original permission.
- The issue of the bats

RESOLVED to grant authority for the issuing of a Listed Building Enforcement Notice to remove the unauthorised extension from the cob barn, including the wall plate and the means by which it was attached to the barn and in the event of failure to comply with any notice served, to authorise prosecution, or direct action.

(Proposed Cllr P J Heal and seconded by Cllr Mrs C A Collis)

Note: Mr Hotton, landowner spoke.

41 **DEFERRALS FROM THE PLANS LIST**

There were no deferrals from the Plans List.

42 **THE PLANS LIST (2-24-00)**

The Committee considered the applications in the plans list *.

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

(a) Applications dealt with without debate.

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

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

(i) No 2 on the Plans *List (16/00665/HOUSE – Erection of single storey rear extension – 11 Chinon Place, Tiverton)* be approved subject to conditions as recommended by the Head of Planning and Regeneration.

(Proposed by the Chairman)

(ii) No 3 on the Plans *List (16/00712/HOUSE – Erection of single storey rear extension – 5 St Johns Close Tiverton)* be approved subject to conditions as recommended by the Head of Planning and Regeneration.

(Proposed by the Chairman)

(iii) No 4 on the Plans *List (16/00756/FULL – Erection of gates across existing drive entrance, Old Bartows, Bartows Causeway, Tiverton)* be approved subject to conditions as recommended by the Head of Planning and Regeneration.

(Proposed by the Chairman)

Note: Cllr D J Knowles declared a personal interest as the applicant was known to him.

(iv) No 5 on the Plans List ***(16/00757/LBC – Listed Building Consent for erection of gates across existing drive entrance, installation of ground floor window and other internal alterations –Old Bartows, Bartows Causeway, Tiverton)*** be approved subject to conditions as recommended by the Head of Planning and Regeneration.

(Proposed by the Chairman)

Note: Cllr D J Knowles declared a personal interest as the applicant was known to him.

(b) No 1 on the Plans List ***(16/00588/HOUSE – Erection of first floor extension with Juliet balcony, detached garage and formation of new access to replace existing – 22 Turnpike, Sampford Peverell)***

The Area Planning Officer outlined the contents of the report highlighting by way of presentation the proposed site plan, the new access and proposed parking, the existing and proposed elevations, floor plans and sections. Photographs were shown from various aspects of the site emphasising the impact of the development on the neighbouring property.

Consideration was given to:

- The need for the property to be modernised
- The scale and massing of properties in the area and relationship between them
- Amendments that had been made to the proposal to lessen the effect on the neighbouring property
- The concerns of the neighbour objecting to the application

RESOLVED that planning permission be granted for the following reasons:

- The proposal was in keeping with the surrounding area
- The proposal did not detract from the overall visual appearance of the property
- The relationship with the adjacent property was acceptable

And that delegated authority be given to the Head of Planning and Regeneration to create a set of conditions for the development.

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

Notes:

- (i) Cllr Mrs C A Collis declared a personal interest in the application as she had spoken to both parties and chose to leave the meeting during the discussion thereon;
- (ii) Cllr R J Dolley declared a personal interest in that he knew the applicant and the agent;

- (iii) Cllr D J Knowles declared a personal interest as the agent was known to him;
- (iv) Cllrs Mrs H Bainbridge, Mrs F J Colthorpe, R J Dolley, P J Heal, D J Knowles, F W Letch, B A Moore, R F Radford, J D Squire and R L Stanley made declarations in accordance with Protocol of Good Practice for Councillors in deal with Planning matters as they had received correspondence regarding the application;
- (v) Mr Bryant (Agent) spoke;
- (vi) Mrs Woodman spoke on behalf of the objector;
- (vii) Cllr Mrs H Bainbridge spoke as Ward Member;
- (viii) Cllr P J Heal requested that his vote against the decision be recorded.

43 **THE DELEGATED LIST (2-59-49)**

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

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

44 **MAJOR APPLICATIONS WITH NO DECISION (3-00-39)**

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

It was **AGREED** that

Application 16/00918/MOUT - Culmstock Roaad, Hemyock, be brought before the committee for determination but that no site visit take place.

Application 16/00924/MOUT – Dulings Farm, Copplestone be brought before committee for determination and that a site visit take place.

Application 16/00825/MFUL – Lords Meadow Industrial Estate be brought before committee for determination and that a site visit take place.

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

45 **APPEAL DECISIONS (3-05-51)**

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.

46 **APPLICATION 16/00180/FULL - ERECTION OF 2 DWELLINGS FOLLOWING DEMOLITION OF EXISTING DWELLING (REVISED SCHEME) AT 19 EXETER ROAD, SILVERTON (3-07-22)**

The Committee had before it a report of the Head of Planning and Regeneration regarding the above application which had been deferred from the previous meeting so that a site visit could be made by the Planning Working Group.

The Area Planning Officer outlined the contents of the report highlighting the site location plan, the proposal for the siting of 2 dwellings and photographs from various aspects of the site.

Consideration was given to:

- The recent views of the Conservation officer and the impact of the proposal on the conservation area
- Possible overdevelopment of the site
- The impact on the street scene
- The removal of the hedge and wall
- The views of Members of the Planning Working Group
- The applicant's wish to defer the decision to allow for revisions to be made to the scheme in line with the Conservation Officer's report.

RESOLVED that members were minded to refuse the application and deferred the application to allow for the receipt of a report setting out the implications of the proposed reasons for refusal based on the following issues:

- Overdevelopment of the site.
- That the development was not in keeping with the street scene.
- The impact of the development on the setting of the conservation area.
- Parking arrangements were insufficient.

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

Notes-:

- (i) Cllrs Mrs H Bainbridge, Mrs C A Collis, Mrs F J Colthorpe, R J Dolley, P J Heal, D J Knowles, F W Letch, B A Moore, R F Radford, J D Squire and R L Stanley made declarations in accordance with Protocol of Good Practice for Councillors in deal with Planning matters as they had received correspondence regarding the application;
- (ii) Mrs Woodman (Agent) spoke;
- (iii) Mr Higman spoke on behalf of the objectors;
- (iv) Cllr Mrs J Roach spoke as Ward Member;
- (v) The following late information was reported: MDDC Conservation: The character is one of transition between the rural fields and the denser housing of the historic village. The house itself has no historic merit and I have no objection to its demolition. The plot is not large and fitting two properties into the site along with parking creates negative impacts, especially on the street scene. Because the majority of the low boundary wall and hedging will be removed to create parking spaces, a large open frontage with 'porous tarmac' as a surface creates a very suburban feel and leads to a loss of enclosure. Whilst other properties on the row have visibility splays they also have a hard boundary - with fencing and planting or the small hedge banks which helps create character. I therefore think that the frontage / open boundary is a

negative impact and does not preserve or enhance the setting of the conservation area. The house design is reasonable but I do think that the gable end facing the road brings the sense of height and dominance a lot closer to the boundary – other properties have ridges running parallel to the road and set further into the plot. My feeling is that the resulting appearance will therefore look more dominant and ‘busier’ in the plot than is ideal. Orchard Jeffreys is a very good quality property in the conservation area lying to the north. It faces towards this plot and whilst it is a reasonable distance away from the boundary I think that the proximity of the new house to the boundary along with the additional height and a very plain elevation with one obscured window will detract from its setting, albeit a private one.

Summary

The plot is not in the conservation area but I find that the development proposed does not ‘preserve or enhance’ its wider setting and in fact creates a degree of less than substantial harm. For that reason I recommend refusal.

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

47 APPLICATION 05/02315/OUT - OUTLINE APPLICATION FOR THE ERECTION OF AN AGRICULTURAL WORKER'S DWELLING (RESUBMISSION) AT LAND AT NGR 316000 114353 (ADJ. SHALOM), CALLER'S LANE, CLAYHIDON (3-49-52)

The Committee had before it a * report of the Head of Planning and Regeneration regarding an alteration to the Section 106 Agreement tying the dwelling to the holding in respect of substituting two existing parcels of land with two new parcels of land.

The Area Planning Officer outlined the contents of the report identifying the parcels of land in question and clarifying the size of the land involved.

RESOLVED that the alteration to the Section 106 Agreement to substitute land parcels be approved.

(Proposed by the Chairman)

Note: *Report previously circulated copy attached to minutes.

48 APPLICATION 14/00881/MOUT - OUTLINE APPLICATION FOR A MIXED USE DEVELOPMENT COMPRISING UP TO 700 DWELLINGS, 22,000 SQUARE METRES OF B1/B8 EMPLOYMENT LAND, CARE HOME, PRIMARY SCHOOL AND NEIGHBOURHOOD CENTRE WITH ASSOCIATED ACCESS INCLUDING A LEFT IN LEFT OUT JUNCTION ON THE WESTBOUND A361 AND ACCESS AND EGRESS ONTO BLUNDELLS ROAD AT LAND EAST OF TIVERTON, SOUTH OF A361, AND BOTH NORTH AND SOUTH OF BLUNDELLS ROAD, UPLOWMAN ROAD, TIVERTON

As reported earlier in the meeting this item had been deferred to allow for further consultation to take place.

49 **APPLICATION 13/01616/MOUT - OUTLINE FOR THE DEVELOPMENT OF UP TO 330 DWELLINGS TOGETHER WITH PUBLIC OPEN SPACE, ASSOCIATED INFRASTRUCTURE AND OTHER WORKS INCLUDING VEHICULAR ACCESS, PEDESTRIAN/CYCLE LINKS AND HIGHWAY IMPROVEMENTS AT LAND AT NGR 298671 113603, UPLOWMAN ROAD, TIVERTON (3-52-47)**

The Committee had before it a report * of the Head of Planning and Regeneration in light of ongoing negotiations over this application post committee, as a result of these discussions to consider several proposed amendments to the draft S106 agreement and planning conditions.

The Area Planning Officer provided answers to the questions posed in public question time:

- With regard to the positioning of the affordable housing, the outline permission stated that the affordable housing be spread across the site, however a commercial decision has been taken by MDDC Housing Service to deliver the affordable housing all on one site due to need and viability.
- The policy with regard to pepper-potting remained unchanged
- She identified the land for affordable housing
- With regard to the total cost of the land, the contribution would be from the developer, any costs would be commercially sensitive.
- The costs of building the affordable housing would not be met by the tax payer but by the Housing Revenue Account.

She outlined the contents of the report stating that the outline application was for the development of up to 330 dwellings,. The application had been granted consent in September 2015. The Housing Service proposed to acquire the land on the site in order to be the affordable housing provider, under the proposed arrangement the Council would deliver the whole of the affordable housing requirement on the site. The percentage of affordable housing had been reduced to 21.5% (70 properties) due to ground water mains on the site. The changes were seen to be acceptable and would release the developer of the market housing from any affordable housing requirements. The golf club contribution would be amended due to lack of contributory funding from the club. No match funding would be required.

Consideration was given to:

- The lack of pepperpotting of affordable housing
- The proposal meant that the Council had control of the delivery of the affordable housing and the quality of the design
- The position of the ground water mains

RESOLVED that:

1. That subject to the Council remaining the affordable housing provider, the agreed terms of the S106 be amended to allow 21.5% affordable housing

together with a financial contribution towards affordable housing of £120,000 which will be delivered through a reduction in the cost of the land to the Council.

2. That the agreed terms of the S106 be amended to discharge market housing developers from all affordable housing requirements upon the completion of the Council's land purchase of part of the site and the grant to the Council of reserved matters or full planning permission for the affordable housing.
3. That subject to the agreement of recommendation 2 above and the Council remaining the affordable housing provider, the agreed terms of the S106 be amended to allow the open market housing to be constructed and occupied independently of the delivery of the affordable housing.
4. The agreed terms of the S106 be amended to allow a contribution of £125,000 from the developer towards the re-alignment of the 12th hole at the Golf Club without the need for match funding being provided by Tiverton Golf Club.

(Proposed by Cllr P J Heal and seconded by Cllr D J Knowles)

Notes:

- (i) Cllr R L Stanley declared a personal interest as he had been involved with negotiations in his role as Cabinet Member for Housing;
- (ii) Cllr D J Knowles declared a personal interest as some of the objectors were known to him;
- (iii) Cllr P J Heal declared a personal interest as the Chairman of the Decent and Affordable Homes Policy Development Group;
- (iv) *Report previously circulated copy attached to signed minutes.

50 **PROCEDURES FOR DEALING WITH REQUESTS TO VARY OR DELETE PRE-EXISTING PLANNING OBLIGATIONS (S106 AGREEMENTS) (4-16-00)**

The Committee had before it a report * of the Head of Planning and Regeneration in order to amend the way in which proposals to vary or delete planning obligations were dealt with in light of recent requests and to respond to changes introduced by the Government.

She outlined the contents of the report stating that there had recently been several instances where proposed changes to S106 agreements which were either acceptable in planning terms or not considered to be significant had had to come before the Committee purely because the planning application that they related to was determined by the Committee rather than under delegated powers. Provisions to deal with applications made under Section 106BA of the Town and Country Planning Act 1990 may also now be deleted. Under procedure changes introduced in January 2014 certain S106 amendments that related to affordable housing were amended by reference to the Chairman and Vice Chairman of the Planning Committee, the Cabinet Member for Housing and Ward Members without referral to committee it was proposed to extend this approach whilst retaining Member input

and building in an opportunity to call the proposed S106 revisions to the Planning Committee. She highlighted the existing and proposed procedures.

RESOLVED that: the amendments to the procedure and the scheme of delegation to the Head of Planning and Regeneration be agreed.
(Proposed by the Chairman)

Note:- *Report previously circulated copy attached to signed minutes.

(The meeting ended at 6.55 pm)

CHAIRMAN

PLANNING COMMITTEE AGENDA – 3rd August 2016

Enforcement List

<u>Item No.</u>	<u>Description</u>
1.	ENF/14/00128/LIS – Without listed building consent the execution of Works for the alteration (“the Works”) to the listed building namely the removal of timber windows and doors in the façade and inserting uPVC windows and a door at 18,19 and 22 Exeter Road, Crediton.
2.	ENF/16/00098/UCU - Without planning permission the erection of a residential/domestic use building ("the breach") at Barn Orchard, Higher Furzeland, Copplestone, Crediton EX17 5NX
3.	ENF/00154/BRE - Breach of condition 5, Planning Permission 00/01665/FULL; The building hereby approved shall only be used for agricultural purposes reasonably necessary on the holding to which it relates. On its becoming redundant for such purposes, it shall be demolished and all resultant materials removed from the site within 3 months of redundancy at Sky End, Templeton, Tiverton, Devon (formerly: land and buildings at NGR 288977 115989 (Mayfield House) Templeton, Devon)

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Case No. ENF/14/00128/LIS

Grid Ref: 283948 99738

Address:

The thatched terrace of dwellings, listed Grade II, and numbered 18,19 and 22 Exeter Road, Crediton.

Alleged Breach:

Without listed building consent the execution of Works for the alteration ("the Works") to the listed building namely the removal of timber windows and doors in the façade and inserting uPVC windows and a door.

Recommendations:

That Members, having regard to the provisions of the Mid Devon Development Plan comprising the Core Strategy 2026 (July 2007), the Local Plan Part 3 Development Management Policies (October 2013) and all other material planning considerations in accordance with Section 38, Planning (Listed Building and Conservation Areas) Act 1990, should grant authority for the issuing of Enforcement Notices in respect of the following breaches of planning control;

Site Description:

Numbers 16 to 20 (consecutive) and number 22 Exeter Road, Crediton, are a row of 6 adjoining urban cottages at the entrance to the town on the Exeter side. On 2 October 1992, they were entered onto the list of buildings of special architectural or historic interest. One of the reasons for the listing appears to be the mix of materials used in the construction, described as brick walls under a thatched roof which is unusual for Devon.

The dwellings are described in the list as:

"Row of 6 adjoining urban cottages. Probably circa 1840s with earlier origins. Front wall Flemish bond brick; end walls rendered; thatched roof hipped at left end, gabled at right end; 3 axial stacks and rear lateral stacks with brick shafts. Plan: Single-depth range. The 3 left hand cottages are double fronted with central entrance's (No.'s 16 to 18), No.'s 19 and 20 single fronted, No. 22 converted into double fronted plan from 2 single fronted cottages. Exterior: 2 storeys. Asymmetrical 2:2:2:1:1:3 window front. No.16 is entered from the left. The front has 2 ground floor C20 timber small-pane top hung casements; 2 first floor C19 to C20 2-light casements. No 17 has a central plank door, a C20 timber small pane top-hung casement to the left, a C19 sliding sash to the right with 4 panes per light. First floor windows are one 2-light and one 3-light C19 timber casements.

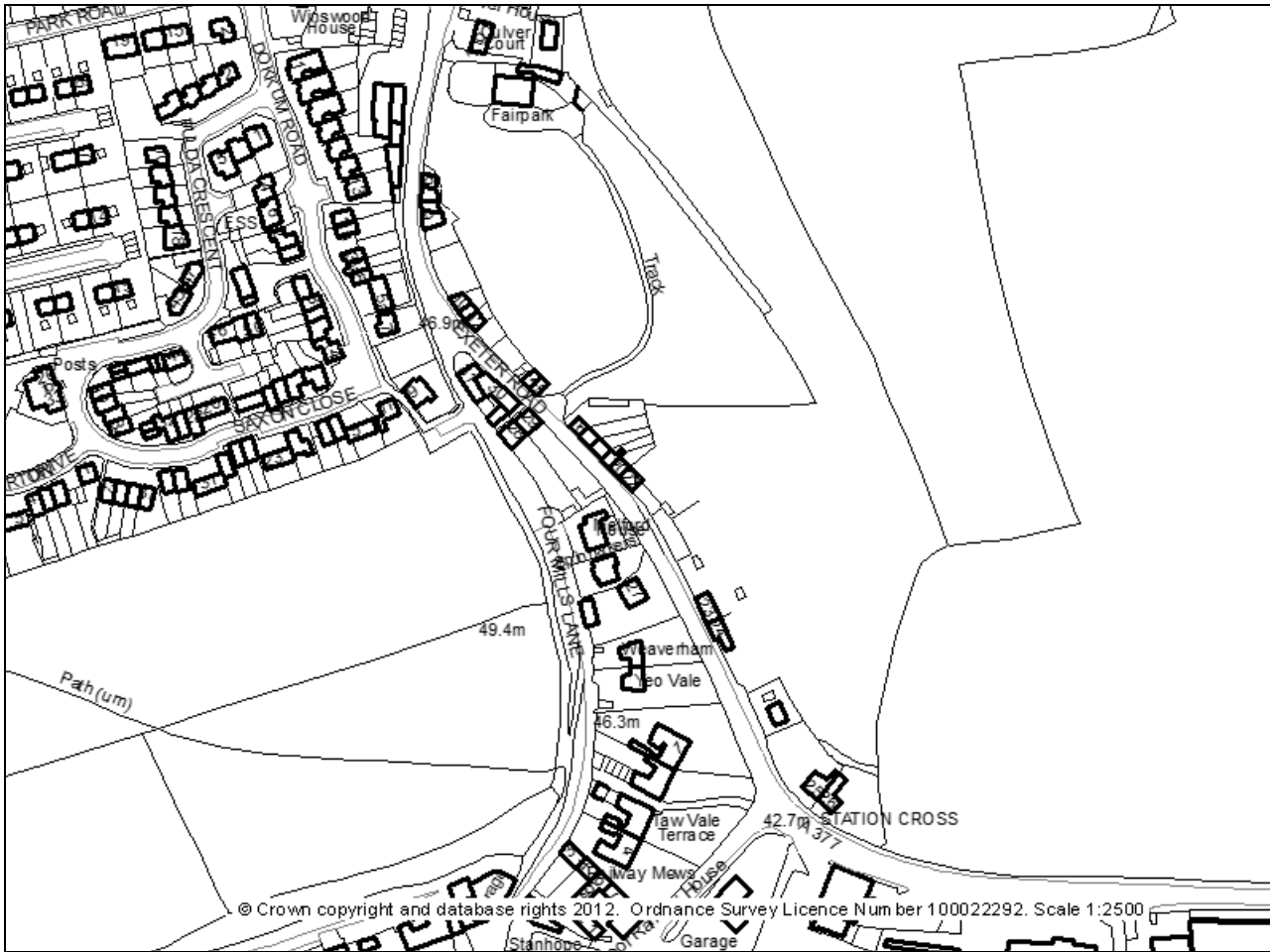
No.18 has a C20 boarded door in the centre with a glazed pane flanked by 4/4-pane sashes and 2 first floor top-hung timber casements.

No.'s 19 and 20 have half-glazed C20 doors towards the centre and each have a 16 pane horned sash alongside and a first floor 2 light casement.

No.22 has steps up to a 4-panel front door in the centre with the top panels glazed; a 16-pane sash to the left, a 2/2 pane sash to the right and 3 first floor 2-light casements, 2 panes per light. Blocked doorway on front indicates that the house was originally 2 smaller cottages. Interior: Not inspected but may retain features of interest.

The combination of brick and thatch is an unusual one in Devon. These houses are an important part of the entrance into the town from the Exeter side."

Site Plan:



Site History:
None relevant

Development Plan Policies:
National Planning Policy Framework

Mid Devon Core Strategy (Local Plan 1)

NPPF, Chapter 12: Conserving and Enhancing the Historic Environment. Of which paragraph 132 states: "When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting."

NPPF, Decision-taking - "Effective enforcement is important as a means of maintaining confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control.

Mid Devon Core Strategy (Local Plan 1)

COR2 - Local Distinctiveness

Allocations and Infrastructure Development Plan

Mid Devon Local Plan Part 3 (Development Management Policies)

Policy DM27 - Development affecting heritage assets

Policy DM31 - Planning enforcement

Reasons/Material Considerations:

The Local Planning Authorities records show that in September 2014, it was evident that works were being undertaken, without listed building consent to number 22 Exeter Road. The unauthorised works included the removal of the timber windows and the entrance door from the façade and internal works to remove the staircase and open up a sealed fireplace. The records also indicates that other cottages in the group had been altered without consent.

A file note suggests that when interviewed and asked to explain their actions, the owners claimed ignorance of the protection granted by the listed status of the building and justified their action by saying their intention was to weather proof and improve the property which they had purchased two years earlier. The notes indicate the owners were advised the works required listed building consent and that a proposed course of action would be provided. However, it is not known what if any further advice was offered.

On 25 May 2016 a recent site visit was conducted with a view to ascertaining how many of the cottages had been altered without consent. Using the listing description as a guide, it was noted that both ground floor timber sash windows in number 18 had been removed and brown uPVC framed windows installed in their place; and that number 19 had had the timber sash window on the ground floor and the timber casement window on the first floor removed and white uPVC window installed in their place. The exterior of number 22 was also examined. It was noted that the uPVC framed windows and uPVC door seen in 2014 were still inserted in the façade at ground floor level.

An examination of the planning database revealed that listed building consent had not been granted for the alterations, (replacement windows and doors) to numbers 18, 19 or 22. An examination of the photographs of historic buildings held on 'Conservation' database, indicated that the timber sash windows at number 22 were in situ on 23 April 2009, but on that same date,

the timber windows on the ground and first floor at numbers 18 and 19, had already been removed and uPVC windows installed.

Officer opinion is that that the unauthorised works adversely affect the character of the listed building and should be reversed. It is also officer opinion that a long compliance period should be given to allow the owners' time to amass the funds necessary to have timber windows and in case of number 22, a door, manufactured to match those removed without consent.

On 30 June 2016, whilst photographing the existing timber joinery in numbers 16 and 20, the enforcement officer informally interviewed the owner of number 19. He advised that the windows installed without consent should be removed and timber windows installed in their place. In response, the occupier of number 19 advised the officer that the uPVC windows were installed prior to acquisition of the property 11 years previously and was grateful that a long compliance period was being considered for the reinstatement of the timber windows. That same day, the owners of numbers 18 and 22 Exeter Road were advised in writing, and the owner of number 19 Exeter Road reminded of the conversation, that the building was listed and that the uPVC windows - and in the case of number 22, the door - must be removed and replaced with timber windows and a door to match that which was installed at the time of listing.

The occupier of number 18 responded by letter, and in subsequent a telephone conversation advised the enforcement officer that the windows were installed prior to buying the house in 2008. He expressed understanding that the windows should be replaced but because the occupier was living on a pension, hoped the Local Planning Authority would give him plenty of time to obtain the funds necessary to have the windows made up.

On Monday 4 July, the owners of number 22 attended the council officers where they were interviewed informally. They apologised for the breach and asked that they be given a period of two to three years to fund the project.

Conservation of our heritage assets does not mean freezing a building in its present state for perpetuity, but it does mean that all alterations must be carefully justified beforehand, taking into account not only the effect of the works in the short term but also their consequences for the building, its character and its historic interest. Windows manufactured in uPVC, fail to match the appearance of old windows: they invariably have larger, heavier sections than timber windows; black rubber gaskets are visible around the glass; and fine glazing bars cannot be incorporated convincingly. As a consequence, uPVC fenestration and uPVC doors adversely affects the character as buildings of special architectural or historic interest.

The uPVC windows and uPVC door installed in the façade of numbers 22 and the uPVC windows installed in the façade of numbers 18 and 19 adversely affects the character of the row of six cottages, listed as numbers 16 to 20 (consecutive) and number 22 Exeter Road, as a building of special architectural or historic interest. Members are therefore requested to authorise the issue of three Listed Building Enforcement Notices directing that the unauthorised works at numbers 18, 19 and 22 are corrected.

The Conservation Officer has been consulted and agrees with both the recommended course of action to alleviate the harm and the suggested steps required by the three Listed Building Enforcement Notices.

In order that the occupiers / owners can fund the bespoke manufacture of the replacement windows and door, it is recommended that a compliance period of three years be given.

Human Rights and Equality Issues:

The expediency of Enforcement action has been assessed with reference to guidance contained in the National Planning Policy Framework (NPPF). Expediency has also been assessed with regard to the statutory Development Plan, comprising the Core Strategy 2026 (July 2007), the Allocations and Infrastructure Development Plan Policies (January 2011) the Local Plan Part 3 Development Management Policies (October 2013).

When making their decision, Members must have regard to all relevant planning legislation, regulations, guidance, circulars and Council policies. This will enable them to make an informed decision in respect of an application.

In addition, Members should note that the Human Rights Act 1998 (HRA 1998) makes it unlawful for the Council to act incompatibly with Convention rights. Decisions by the Committee must take account of the HRA 1998. Therefore, Members need to be aware of the fact that the HRA 1998 makes the European Convention on Human Rights (the Convention) directly applicable to the actions of public bodies in England and Wales. The specific parts of the Convention relevant to planning matters are Article 6 (right to a fair hearing); Article 8 (right to respect for private and family life); Article 1 of the First Protocol (protection of property) and Article 14 (prohibition of discrimination).

Article 6 deals with procedural fairness. If normal committee procedures are followed, it is unlikely that this article will be breached.

Article 1 of the First Protocol and Article 8 are not absolute rights and infringements of these rights protected under these are allowed in certain defined circumstances, for example where required by law. However any infringement must be proportionate, which means it must achieve a fair balance between the public interest and the private interest infringed and must not go beyond what is needed to achieve its objective.

Article 14 states that the rights under the Convention shall be secured without discrimination on grounds of 'sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status'.

The power to issue an Enforcement Notice is discretionary and should only be used where the Local Planning Authority are satisfied that there has been a breach or breaches of planning control. It must also be satisfied that it is expedient to issue the Notice having regard to the provisions of the Development Plan and to any other material considerations. Consequently the Council must decide based on the particular circumstances of each individual case the question of expediency. The decision to take enforcement action must be reasonable and not based on irrational factors or taken without proper consideration of the relevant facts and planning issues or based on non-planning grounds.

Options for action or remedy:

The list of options available is as follows:

Take no action:

This would not be appropriate as it would allow the unauthorised uPVC and windows and door to remain in situ adversely affecting the character of row of cottages.

Invite an application to grant consent to regularise the change of use - This again would not be appropriate for the reasons outlined in the body of the report.

Listed Building Enforcement Notices:

1. Requirement of the Notice in the case of number 18 Exeter Road:

In order to alleviate the effect of the works which were carried out without listed building consent:

- (a) Remove the uPVC windows installed on either side of the entrance door at ground floor level.
- (a) Install 3/3 timber framed sliding sash windows, on the left hand side of the entrance door (when viewed externally), in the aperture vacated by the unauthorised uPVC window. The new windows to match as far as are reasonably practicable the plain design principle of the windows originally installed in 22 Exeter Road and shown in photograph marked KP1. The new sash window to be painted white and set back so as to provide a 100mm external reveal.
- (b) Install 2/2 timber framed sliding sash windows, on the right hand side of the entrance door (when viewed externally), in the aperture vacated by the unauthorised uPVC window. The new window to match as far as is reasonably practicable the design of the windows originally installed in 22 Exeter Road and shown in photograph marked KP1. The new sash window to be painted white and set back so as to provide a 100mm external reveal.
- (c) All new timber windows to be glazed with slim-light double glazing.

2. Requirement of the Notice in the case of number 19 Exeter Road:

In order to alleviate the effect of the works which were carried out without listed building consent,

- (d) Remove the uPVC window installed in the façade on the ground floor level.
- (e) Remove the uPVC window installed in the façade on the first floor level.
- (f) Install stone cills at the base of the window apertures on both the ground floor and first floor vacated by the unauthorised uPVC windows. The cills to match as far as is reasonably practicable the stone cills installed in the window aperture of number 20 Exeter Road.
- (g) Within the aperture vacated by the unauthorised uPVC window on the ground floor, install an 2/2 timber framed sliding sash window to match as far as is reasonably practicable the design of the windows originally installed in 22 Exeter Road as shown in photograph marked KP1. The new sash window to be painted white and set back so as to provide a 100mm external reveal.
- (h) Install a 2-light timber casement window, on the first floor in the aperture vacated by the unauthorised uPVC window. The new window to be painted white and set back so as to provide a 100mm external reveal.
- (i) All new timber windows to be glazed with slim-light double glazing.

3. Requirement of the Notice in the case of number 22 Exeter Road:

In order to alleviate the effect of the works which were carried out without listed building consent:

- (j) Remove the uPVC windows installed on either side of the entrance door at ground floor level.
- (k) Remove the uPVC entrance door installed in the façade.
- (l) Install stone cills at the base of the window apertures, on either side of the entrance door, vacated by the unauthorised uPVC windows. The cills to match as far as is reasonably practicable the stone cills installed in the window aperture of number 20 Exeter Road.
- (m) Install 2/2 timber framed sash windows, one on either side of the entrance door in the apertures vacated by the unauthorised uPVC windows. The new sash windows to be set back so as to provide a 100mm external reveal.
- (n) Install a timber four panel door with the top two panels glazed. The door to match as is reasonably practicable the door shown in Photograph marked KP2.
- (o) All new timber windows to be glazed with slim-light double glazing.

Reasons for Issuing the Notice:

The Works relate to a building included on the Statutory List of Buildings of Special architectural Interest (Grade II).

The Works constitute unsympathetic and inappropriate alterations which adversely affect the character and appearance of the building. Consequently, the Works are contrary to the advice contained in paragraphs 126 - 141 of the NPPF, Policy COR2 of the Core Strategy, and Policies DM27 & DM31 of the Mid Devon Local Plan Part 3

Period for Compliance:

Three (3) years after the notice takes effect.

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Case No. ENF/16/00098/UCU

Grid Ref: 278398 103443

Address:

Barn Orchard, Higher Furzeland, Coplestone, Crediton EX17 5NX

Alleged Breach:

Without planning permission the erection of a residential/domestic use building ("the breach").

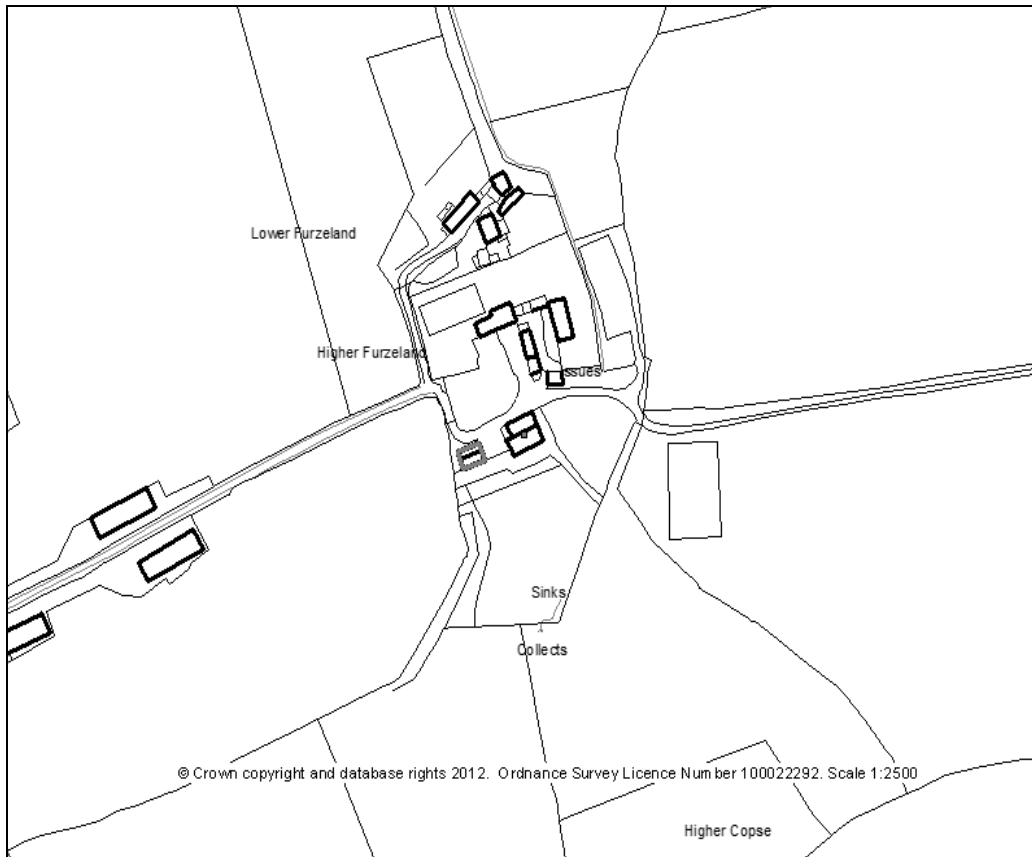
Recommendations:

That Members, having regard to the provisions of the Mid Devon Development Plan comprising the Core Strategy 2026 (July 2007), the Allocations and Infrastructure Development Plan Policies (January 2011) the Local Plan Part 3 Development Management Policies (October 2013) and all other material planning considerations in accordance with Section 172 Town and Country Planning Act 1990, should grant authority for the issuing of an Enforcement Notice in respect of the above breach of planning control.

Site Description:

Higher Furzeland is a Grade II* listed farmhouse within an informal group of traditional former farm buildings, listed Grade II, situated approximately 1.3 km north-east of Coplestone in open countryside within a lower valley location: the smaller hamlet of New Buildings lies just over 1 km to the east. The site called Barn Orchard, comprises a former threshing barn and the building subject of this report together with some agricultural land which was split from previously annexed land known as Higher Furzeland.

Site Plan:



Site History:

14/01955/FULL	Conversion of former threshing barn to dwelling and erection of replacement extension	PERMIT
14/01957/LBC	Listed Building Consent for conversion of former threshing barn to dwelling and erection of replacement extension	PERMIT

Development Plan Policies:

National Planning Policy Framework

The NPPF, Chapter 7, paragraph 55 advises that to promote sustainable development in rural areas, LPA's should avoid new isolated homes in the countryside unless there are special circumstances such as the essential need for a rural worker to live permanently at or near their place of work in the countryside. This aim is reflected in Mid Devon Local Development Framework policies.

Paragraph 132 NPPF, advises 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.

NPPF, Chapter 7: Requiring Good Design. Of which paragraph 64 states: "Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

NPPF, Decision-taking - "Effective enforcement is important as a means of maintaining confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control.

Core Strategy 2026

COR2 - Local Distinctiveness

Allocations and Infrastructure Development Plan

COR18 - Core Strategy Policy on Countryside

Mid Devon Local Plan Part 3 (Development Management Policies)

Local Plan Part 3

Policy DM2 - High quality design

Policy DM10 - Rural workers dwellings

Policy DM27 - Development affecting heritage assets

Reasons/Material Considerations:

On or before 7 March 2005, the Grade II* listed farm house called Higher Furzeland, together with an informal group of farm buildings and associated agricultural land, was removed from a greater land title held by the persons subject of this report and registered with HMLR as Title: DN509330 under one of their names. On or before 04 January 2016, The Grade II* listed farm house together with adjacent agricultural buildings and the land immediately associated with them was annexed from that land title and registered under Title: DN665712. The remaining land, containing an historic cob barn and a C20 pole barn was then renamed by the landowner as Barn Orchard, Higher Furzeland.

In January 2016 conditional planning permission and conditional listed building consent was granted for the conversion of the historic cob barn to a dwelling. As is usual with any proposed development involving historic barns, the applicant was obliged to commission an Ecologist to undertake a 'Bat & Bird' survey of the cob barn.

The ecologist report stated:

"The proposed works to convert the barn could potentially disturb, injure or kill any bat present at the time of work and would destroy a barbestrelle bat day roost, a brown long-eared bat maternity roost and a lesser horseshoe bat night roost. The work will therefore require a European protected species licence(EPSL) from Natural England once planning permission Has been granted."

The report went on to describe mitigation measures the landowner could employ to provide alternative roosting provision for bats. One of those was:

(a)"Providing a dedicated bat loft (above existing barn or other building on site) for all species affected. The loft should have an uncluttered roof void constructed in traditional 'cut and pitch' method, not using trussed rafters."

(b)"The roof would need to have a minimum apex height of 2.8m."

(c)"The replacement bat loft would need to be constructed prior to converting the existing barn."

The roof of the adjacent C20 pole barn was too shallow. So, in order to provide a building that had a roof void with a minimum height of 2.8m, so as to satisfy the mitigation advice and provide a habitat for the bats, the landowner demolished the pole barn and without planning permission erected a two storey timber clad building with a residential flat on the first floor and domestic equestrian facilities on the ground floor, broadly on the footprint of the former pole barn that stood on the site.

This unauthorised building resembling a dwellinghouse on one side and an industrial / storage building on the other and measuring approximately 20m long, 5m and 7m high, has a steep dual pitched slate roof with terracotta ridge tiles. It appears to have been constructed with a mixture of concrete block and timber and has been clad with light brown shiplap timber planks. At first floor level, on the southern elevation visible to persons visiting or accessing the Grade II* Higher Furzeland from Bewsley Hill, four white painted casement windows have been inserted. From the eaves of the northern elevation, a single storey lean-to extension has been constructed along almost the entire length of the residential use building. This lean-to extension is supported at one end by a block-work structure, measuring approximately 4m x 4m, whilst the remainder of its length, supported by timber posts, is open fronted.

The residential accommodation provided on the first floor of this new building includes a kitchen area comprising a sink unit with built-in two ring electric hob; a shower room / toilet; a living / dining room, containing a sofa, table, chairs, television and general domestic paraphernalia; and two bedrooms both containing double beds. The block-work structure on the ground floor houses a boiler and is used as an office.

Higher Furzeland is an historic farm group comprising a C16 three room and through passage farmhouse with C17 additions and improvements, listed Grade II*. Adjacent to its southern elevation are two cob buildings, namely a former coach house and stables and Linhay, both listed Grade II. Within that group, but not listed, is a former threshing barn which in 2016, was considered suitable for a sympathetic conversion to a dwelling. (ref: 14/01944/FULL and 14/01957/LBC).

Albeit that consent has been granted for the conversion of the former threshing barn to a dwelling, and the area of land on which the unauthorised building has been erected is within the red edged parcel of land for that new dwelling, the planning permission / listed building consent has not been

implemented. Therefore, the change of use of that parcel of land from agriculture to residential / domestic has not yet occurred.

Fall back considerations - Permitted Development:

This case concerns the erection of a new dwelling in the countryside, not the conversion of an existing rural building last used for agriculture. Consequently, Schedule 1, Part 3, Class Q - Agriculture to Dwelling, or, Class R - Agriculture to Class B1 business, is not a consideration.

Paragraph 55 NPPF, advises that: "To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities and that Local Planning Authorities should avoid new isolated homes in the countryside unless there are special circumstances such as the essential need for a rural worker to live permanently at or near their place of work in the countryside. Policy DM10 - Rural Workers Dwellings: reflects and expands upon advice provided by paragraph 55 of the NPPF. The landowner has not demonstrated a need for a new dwelling in the countryside.

Paragraph 132 NPPF, advises 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."

Higher Furzeland farmhouse is a significant heritage asset and is listed Grade II*. The adjacent Coach House & Stables and the Linhay are part of that historic farm group and are Listed Grade II.

The design, mass and physical appearance of the new building resembles a pastiche of an East Anglia barn converted to a dwelling rather than the traditional cob barns associated with rural Devon. Consequently, it is at odds with the setting of these heritage assets, jarring with the vernacular buildings in the group and their rural context. The Conservation Officer (West Area) supports this view.

The new residential building constitutes unsustainable development in a rural area, where isolated homes are restricted for use by essential rural workers. In this case the land owner has neither proven that need nor sought to do so. In addition, the design, mass and physical appearance of the new building is at odds with the setting of this significant heritage asset, jarring with the vernacular buildings in the farm group called Higher Furzeland and the rural context in which it is set. Consequently, it is considered both necessary and in the public interest that an Operational Development Enforcement Notice is issued to bring about the removal of the unauthorised building from the land. This is the recommended course of action for Members consideration.

Human Rights and Equality Issues:

The expediency of Enforcement action has been assessed with reference to guidance contained in the National Planning Policy Framework (NPPF). Expediency has also been assessed with regard to the statutory Development Plan, comprising the Core Strategy 2026 (July 2007), the Allocations and Infrastructure Development Plan Policies (January 2011) the Local Plan Part 3 Development Management Policies (October 2013).

When making their decision, Members must have regard to all relevant planning legislation, regulations, guidance, circulars and Council policies. This will enable them to make an informed decision in respect of an application.

In addition, Members should note that the Human Rights Act 1998 (HRA 1998) makes it unlawful for the Council to act incompatibly with Convention rights. Decisions by the Committee must take account of the HRA 1998. Therefore, Members need to be aware of the fact that the HRA 1998 makes the European Convention on Human Rights (the Convention) directly applicable to the actions of public bodies in England and Wales. The specific parts of the Convention relevant to planning matters are Article 6 (right to a fair hearing); Article 8 (right to respect for private and

family life); Article 1 of the First Protocol (protection of property) and Article 14 (prohibition of discrimination).

Article 6 deals with procedural fairness. If normal committee procedures are followed, it is unlikely that this article will be breached.

Article 1 of the First Protocol and Article 8 are not absolute rights and infringements of these rights protected under these are allowed in certain defined circumstances, for example where required by law. However any infringement must be proportionate, which means it must achieve a fair balance between the public interest and the private interest infringed and must not go beyond what is needed to achieve its objective.

Article 14 states that the rights under the Convention shall be secured without discrimination on grounds of 'sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status'.

The power to issue an Enforcement Notice is discretionary and should only be used where the Local Planning Authority are satisfied that there has been a breach or breaches of planning control. It must also be satisfied that it is expedient to issue the Notice having regard to the provisions of the Development Plan and to any other material considerations. Consequently the Council must decide based on the particular circumstances of each individual case the question of expediency. The decision to take enforcement action must be reasonable and not based on irrational factors or taken without proper consideration of the relevant facts and planning issues or based on non-planning grounds.

Options for action or remedy:

The list of options available is as follows:

Take no action: - This would not be appropriate as it would allow the unauthorised dwelling to remain in situ contrary to the advice contained in the NPPF and the policies contained in the Mid Devon Development Plan.

Invite an application to grant consent to regularise the change of use - This again would not be appropriate for the reasons outlined in the body of the report.

Recommendation:

That Members, having regard to the provisions of the Mid Devon Development Plan and all other material planning considerations in accordance with Section 172, Town and Country Planning Act 1990, ("the Act") should grant authority to the Legal Services Manager to issue an Operational Development Enforcement Notice in respect of the alleged breach. He should also be authorised to take any and all legal action deemed appropriate including prosecution or Direct Action in the event of non-compliance with the notice.

Requirement of the Notice:

- (i) Demolish the building.
- (ii) Remove from the land the resulting debris together with all domestic paraphernalia associated the residential / domestic building.

Reasons for Issuing the Notice:

It appears to the Council that the breach has occurred within the last four years.

The residential building constitutes an unsustainable form of development in a rural area, where isolated homes are restricted for use by essential rural workers. That need has not been proven. In addition, the design, mass and physical appearance of the new building is at odds with the setting of the heritage assets, jarring with the vernacular buildings in the group and their rural context.

Consequently, the development is contrary to the advice given in the NPPF, Policy COR2 & COR18 of Mid Devon Core Strategy 2026 and Policy, DM2, DM10, DM27 of Mid Devon Local Plan Part 3 Development Management Policies.

The Council do not consider that planning permission should be given, because planning conditions could not overcome these objections to the development.

Period for Compliance:

Six (6) months after the notice takes effect.

Case No. ENF/16/00154/BRE

Grid Ref: 288979 115990

Address:

Sky End, Templeton, Tiverton, Devon(formerly: land and buildings at NGR 288977 115989 (Mayfield House) Templeton, Devon)

Alleged Breach:

Alleged breach of condition 5, Planning Permission 00/01665/FULL; The building hereby approved shall only be used for agricultural purposes reasonably necessary on the holding to which it relates. On its becoming redundant for such purposes, it shall be demolished and all resultant materials removed from the site within 3 months of redundancy.

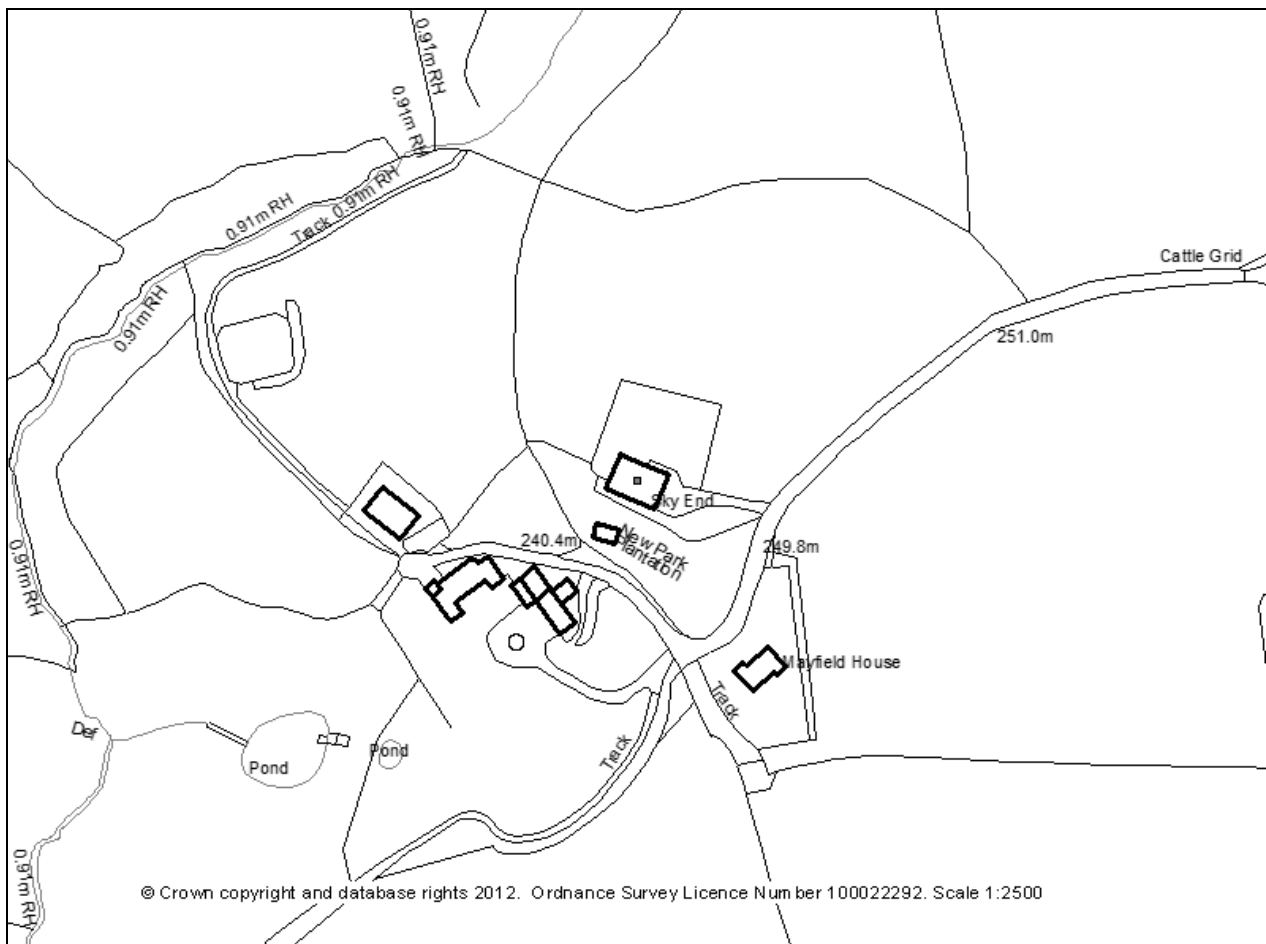
Recommendations:

That no further action be taken in respect of this matter.

Site Description:

Sky End is a development in progress. Formerly the building was a large agricultural barn in a secluded location within an agricultural holding some 1.2 miles north of the settlement of Templeton. To the south the building is screened by mature trees and to the north enjoys uninterrupted views over the surrounding countryside. There are two other dwellings situated some 57 and 73 metres from the barn respectively.

Site Plan:



Site History:

00/01349/PNAG	Erection of general purpose farm building for stock and hay storage *transferred to planning application 4/52/00/01665*	PP
00/01665/FULL	Erection of general purpose agricultural storage/stock building	PERMIT
14/00635/ PNCOU	Prior notification for the change of use of agricultural building to dwelling under classes MB(a) & (b)	ACCEPT

Development Plan Policies:

National Planning Policy Framework

NPPF, Chapter 7: Requiring Good Design. Of which paragraph 56 states: "The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people."

NPPF, Decision-taking - "Effective enforcement is important as a means of maintaining confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control."

Mid Devon Core Strategy (Local Plan 1)

COR2 - Local distinctiveness

COR18 - Countryside

Mid Devon Local Plan Part 3 (Development Management Policies)

DM2 - High quality design

DM11 - Conversion of rural buildings

DM31 - Planning enforcement

Reasons/Material Considerations:

On 16th November 2000 planning permission was granted, subject to conditions, for the erection of a general purpose storage/stock building at Mayfield House, Templeton. Condition 5 of this permission (00/01665/FULL) reads:

The building hereby approved shall only be used for agricultural purposes reasonably necessary on the holding to which it relates. On its becoming redundant for such purposes, it shall be demolished and all resultant materials removed from the site within 3 months of redundancy.

In May 2014 a prior notification for the change of use of the above agricultural building to a dwelling under Classes MB (a) & (b) was received.

Under The Town and Country Planning (General Permitted Development) (Amendment and Consequential Provisions) (England) Order 2014 new legislation came into force on 6th April 2014. This introduced new permitted development rights allowing for the change of use of an agricultural building to a dwelling.

The prior notification referred to above, and relating to land and buildings at NGR 288977 115989 (Mayfield House) Templeton, Devon, was one of the first received and considered under the new legislation.

One of the key considerations for the notification to be classed as permitted development under class MB (a) is as follows: Site was in agricultural use as part of an established agricultural unit on 20th March 2013, or if the site was not in use on that date, when it was last in use, or if the site was brought into after that date, 10 years before the date development begins.

The Planning Officer's inspection of the site in early June 2014 concluded that, at that time, the land and building in question was being used for equestrian purposes. The history of the use of the land and building was then checked with the applicant who confirmed it was used solely for agriculture up until November 2013 when a field was let for grazing horses.

This satisfied the criteria that the building needed to be solely used for agriculture on the critical date, 20th March 2013, to be permitted development.

All other criteria required for this to be permitted development was met and on 2nd July 2014 a Change of Use Acceptance was issued confirming the proposed change of use of the building into 1 dwelling shown on the site location plan and drawing 372-1, accords with the requirements of Class MB (a) and (MB) (b) of the Town and Country Planning (General Permitted Development) (Amendment and Consequential Provisions) (England) Order 2014. Prior approval is not required.

In March 2016 the Enforcement Officer's attention was drawn to fact the condition (5) of the original permission (00/01665/FULL), relating to the cessation of the use of the barn for agriculture, had not been upheld or enforced when that use ceased in 2013. i.e. the requirement that it be demolished within 3 months of it becoming redundant for the purposes of agriculture.

A full investigation into the matter has been carried out and it has been concluded that we had overlooked this condition when considering the change of use notification. In hindsight the matter of the condition should have been addressed when the prior notification was received in 2014. It is the Officer's opinion that this would have been addressed by inviting the applicant to submit an application for the removal of the condition from the original planning permission. It is likely that such an application would have received Officer support. The barn is a relatively new structure and Officer opinion is there is no justification for insisting on its removal. Assuming this to be the case, the conversion of the building would have still met the criteria for this to be permitted development and prior approval would not have been required.

It is clear however, there has been an error on our part in so much as the condition was overlooked and not addressed in the appropriate manner when the change of use application was assessed. Subsequently the Change of Use Acceptance was issued in good faith based on the information provided by the applicant. There are of course lessons to be learnt from this and given that this was one of the first prior notifications for a change of use to be considered under the new legislation it is fair to say our understanding of the legislation has improved with time and practice. Furthermore it is worth noting that class MB is a poorly drafted piece of legislation and lends itself to misinterpretation; hence the legislation was replaced by the much more robust class Q legislation in 2015.

It has been some two years since we confirmed to the applicant that the proposed conversion was permitted development and this issue has only just come to light. The development to convert the building to a dwelling is well underway and is understood to be in new ownership. Officer opinion is that it would be unreasonable to withdraw our acceptance of this being permitted development and to retrospectively address the matter of the removal of the condition at this late stage. Furthermore, given the likelihood of an application to remove the condition getting Officer support, it is not considered expedient to insist the condition requiring the building to be demolished is implemented.

Human Rights and Equality Issues:

The expediency of Enforcement action has been assessed with reference to guidance contained in the National Planning Policy Framework (NPPF). Expediency has also been assessed with regard to the statutory Development Plan, comprising the Core Strategy 2026 (July 2007), the Allocations and Infrastructure Development Plan Policies (January 2011) the Local Plan Part 3 Development Management Policies (October 2013).

When making their decision, Members must have regard to all relevant planning legislation, regulations, guidance, circulars and Council policies. This will enable them to make an informed decision in respect of an application.

In addition, Members should note that the Human Rights Act 1998 (HRA 1998) makes it unlawful for the Council to act incompatibly with Convention rights. Decisions by the Committee must take account of the HRA 1998. Therefore, Members need to be aware of the fact that the HRA 1998 makes the European Convention on Human Rights (the Convention) directly applicable to the actions of public bodies in England and Wales. The specific parts of the Convention relevant to planning matters are Article 6 (right to a fair hearing); Article 8 (right to respect for private and family life); Article 1 of the First Protocol (protection of property) and Article 14 (prohibition of discrimination).

Article 6 deals with procedural fairness. If normal committee procedures are followed, it is unlikely that this article will be breached.

Article 1 of the First Protocol and Article 8 are not absolute rights and infringements of these rights protected under these are allowed in certain defined circumstances, for example where required by law. However any infringement must be proportionate, which means it must achieve a fair balance between the public interest and the private interest infringed and must not go beyond what is needed to achieve its objective.

Article 14 states that the rights under the Convention shall be secured without discrimination on grounds of 'sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status'.

The power to issue an Enforcement Notice is discretionary and should only be used where the Local Planning Authority are satisfied that there has been a breach or breaches of planning control. It must also be satisfied that it is expedient to issue the Notice having regard to the provisions of the Development Plan and to any other material considerations. Consequently the Council must decide based on the particular circumstances of each individual case the question of expediency. The decision to take enforcement action must be reasonable and not based on irrational factors or taken without proper consideration of the relevant facts and planning issues or based on non-planning grounds.

Options for action or remedy:

The list of options available is as follows:

Take no action: - Officer opinion is that this would be an appropriate course of action. The applicant has acted in good faith on a decision made by Mid Devon District Council in 2014.

Invite an application to regularise the situation - This would not be an appropriate course of action. The applicant has acted in good faith on a decision made by Mid Devon District Council in 2014 and it would not be reasonable to insist on an application to remove the condition originally imposed.

Issue a Breach of Condition or Enforcement (Breach of Condition) Notice

This would not be an appropriate course of action. It is not considered expedient to insist the condition requiring the building to be demolished is implemented.

Reasons for Decision:

It has been some two years since we confirmed to the applicant that the proposed conversion was permitted development and the issue of the condition has only just come to light. The development to convert the building to a dwelling is well underway and is understood to be in new ownership. Officer opinion is that it would be unreasonable to withdraw our acceptance of this being permitted development and to retrospectively address the matter of the removal of the condition at this late stage. Furthermore, given the likelihood of an application to remove the condition getting Officer support, it is not considered expedient to insist the condition requiring the building to be demolished is implemented.

It is imperative that this matter is given closure and all parties kept informed of the outcome.

Steps Required:

n/a

Period for Compliance:

n/a

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PLANNING COMMITTEE AGENDA - 3rd August 2016

Applications of a non-delegated nature

- | <u>Item No.</u> | Description |
|-----------------|---|
| 1. | <p>16/00458/FULL - Erection of 3 dwellings and associated infrastructure following removal of existing nursery building at Action For Children, Crediton Area Childrens Centre, Newcombes.</p> <p>RECOMMENDATION
Subject to the provision of a Section 106 Agreement grant permission.</p> |
| 2. | <p>16/00465/OUT - Outline for the erection of 4 dwellings (Revised Scheme) at Land and Buildings at NGR 294162 107150, (Site Adjacent to Bickleigh Church), Bickleigh.</p> <p>RECOMMENDATION
Grant permission subject to conditions.</p> |
| 3. | <p>16/00549/FULL - Erection of an agricultural livestock building (832 sq.m.) at Land and Buildings at NGR 277081 96434 (Shortacombe Farm), Yeoford, Devon.</p> <p>RECOMMENDATION
Grant permission subject to conditions.</p> |
| 4. | <p>16/00564/FULL - Retention of an agricultural access track at Land at NGR 283282 113369 (Menchine Farm), Nomansland, Devon.</p> <p>RECOMMENDATION
Grant permission subject to conditions.</p> |
| 5. | <p>16/00693/MOUT - Outline for the erection of 13 dwellings at Land at NGR 310280 114261, Hunters Hill, Culmstock.</p> <p>RECOMMENDATION
Subject to the provision of a Section 106 Agreement/Unilateral Undertaking and conditions grant permission.</p> |
| 6. | <p>16/00920/FULL - Installation of 10 replacement timber windows and 4 replacement timber doors with uPVC at Morebath Cricket Club, Morebath, Devon.</p> <p>RECOMMENDATION
Grant permission subject to conditions.</p> |

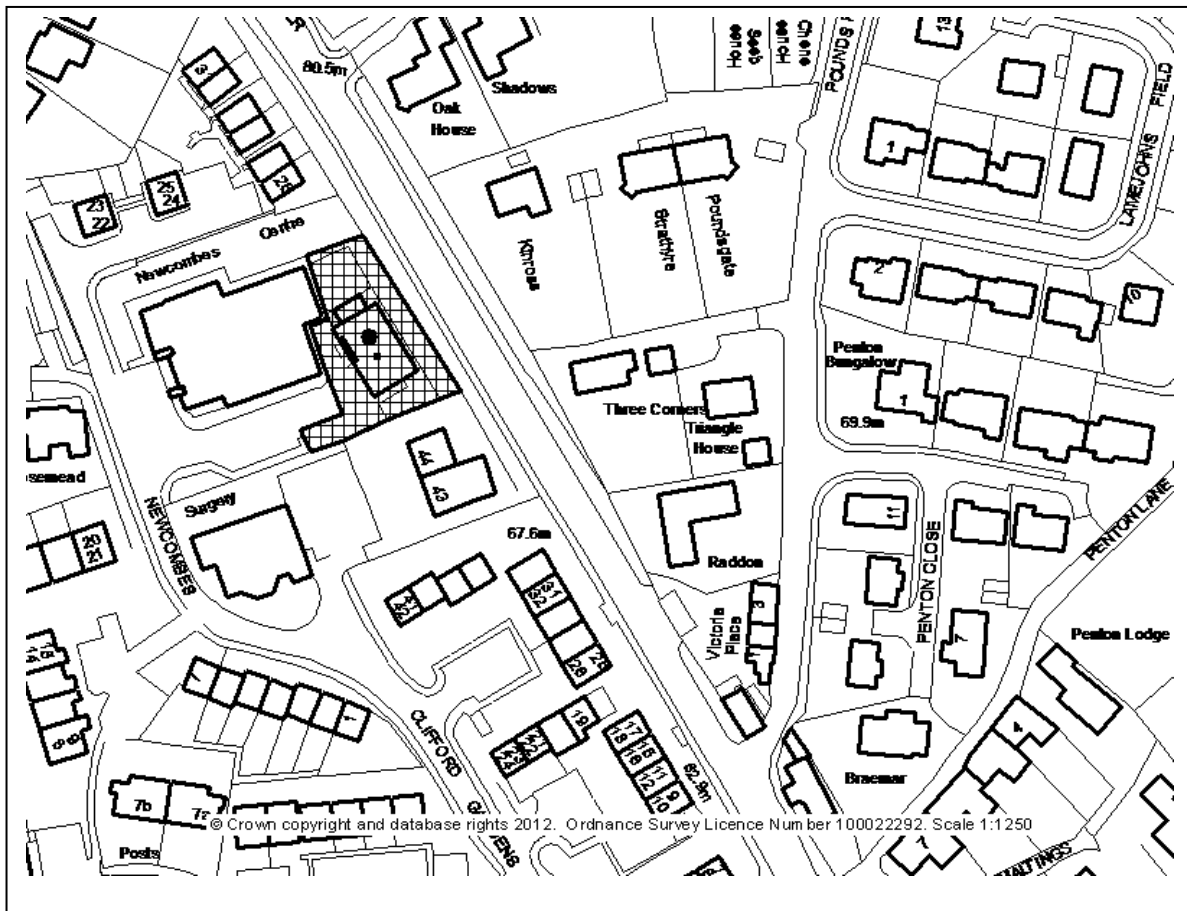
Grid Ref: 283552 : 100550

Applicant: Jenner Homes

Location: Action For Children Crediton
Area Childrens Centre
Newcombes Crediton

Proposal: Erection of 3 dwellings and
associated infrastructure
following removal of existing
nursery building

Date Valid: 30th March 2016



Application No. 16/00458/FULL

RECOMMENDATION

Subject to the provision of a Section 106 Agreement grant permission.

PROPOSED DEVELOPMENT

The description of development set out by the applicant's agent is as follows:

Erection of 3 dwellings and associated infrastructure following removal of existing nursery building
The proposed development is for the erection of 2 dwellings following demolition of Westhayes and Summerhays and associated works'.

The application site comprises the land that was formerly occupied by The Devon County Council Sure Start day centre which is at the rear of a new development comprising 10 dwellings on the site of the former Newcombe Resource Centre (LPA ref: 14/00979/MFUL and 14/02141/MFUL). The site is an irregular shape with a maximum width and depth of approximately 40 metres by 40 metres.

The proposed scheme is for 3 houses with a new access from Jockey Hill to be laid out in a cul-de-sac arrangement.

Each of the houses are designed as 4 bedroom detached dwellings with an attached garage, forecourt and back garden. The design is of a contemporary nature incorporating a feature chimney stack, with predominantly panels of thro render (reddish brown - light and dark panels) to form the walling and a standing seam zinc material and single ply membrane for the roof covering (s). The fenestration is large scale and random, with individual windows frames fabricated from UPVC with a grey finish. The houses range in size between 145 square metres and 173 square metres, excluding the garage. The maximum height of the units is 7.0 metres above the new ground levels which is to be remodelled to establish the proposed development area.

The design approach in terms of the palette of materials which is proposed has been amended since the application was first submitted to seek to respond to concerns that have been expressed.

Foul waters will be managed in the existing mains drainage system with a surface water drainage managed into existing systems and infrastructure already in situ (refer to drawing 1510-101).

The Sure Start facility has been closed for well over 18 months and it is intended that the building will be relocated to the Copplestone Primary School campus for continued use as an education resource in the locality.

APPLICANT'S SUPPORTING INFORMATION

Site Location Plan

Block plan

Proposed layout plans and elevations (revised plans received 16th May 2016)

Completed Unilateral Planning Obligation confirming financial contribution towards the provision of outdoor gym equipment at Newcombes Meadow Park - dated 18th May.

PLANNING HISTORY

08/01843/DCC Regulation 3 application for erection of single storey building for use as a children's centre issued by DCC on 10.12.2008

14/02141/MFUL Erection of 10 dwellings with associated infrastructure and parking (revised scheme following approval of Planning Application; 14/00979/MFUL). This development was approved by the Planning Committee on 10th September 2014.

DEVELOPMENT PLAN POLICIES

Mid Devon Core Strategy (Local Plan 1)

COR2 - Local Distinctiveness

COR15 - Crediton

Mid Devon Local Plan Part 3 (Development Management Policies)

DM1 - Presumption in favour of sustainable development

DM2 - High quality design

DM8 - Parking

DM14 - Design of housing

DM25 - Community facilities

CONSULTATIONS

HIGHWAY AUTHORITY - 17th May 2016

The Highway Authority has reviewed the revised plans and have no objections and the plans should be conditional of any consent.

HIGHWAY AUTHORITY - 9th May 2016

The Highway Authority recommended that this site be considered under Standing advice and the Local Planning Authority has requested formal comments following consultation. The Highway Authority has no objection to the proposal subject to conditions and some amendments.

Access to the proposal is from Jockey Hill where the vehicles will cross the virtual cycle way and footway. The Highway Authority through its pre application advice seeks a widening of the footway over the frontage to 2.0 m. This in itself would provide suitable inter visibility for vehicles entering and leaving the site. The access width of 3.5m is adequate for the three dwellings which would generate 3 movements in the peak hour and is of a suitable width that would accommodate emergency vehicles if necessary.

The Footway width and visibility should be conditional of any consent. However the access should be set back a minimum of 3.5m and splayed at 45 degrees in order to provide sufficient pedestrian visibility, and swept path although 4.5m would be preferable. This would mean a relocation of the pillars either side, closer to the fence line. The gradient of the drive is at the maximum gradient accepted by the Highway Authority, and the applicant will need to ensure that there is positive drainage to prevent surface water entering the public highway, which can be conditional. Each plot appears to provide 2 external spaces and one garage per plot and is in keeping with MDDC parking standards set out in the Local plan.

This is based upon the assumption that for plot 2 there is a space to the north of the unit and one to the west of the unit. b The external spaces meet the correct dimensions but the garages have short falls. The minimum internal dimensions for garaging adopted by DCC and MDDC is 3.0m in width and 6.0m in length Plot 2 and 3 comply with the width but the length is only 5.4 and falls short albeit this can be overcome by the installation of a roller door rather than up and over or conventional door opening. plot one is 5.8m in length and similar door details apply but is 2.8m in width and shy of the 3.0m. Notwithstanding the dimensional shortfalls the car parking is compliant.

Therefore the Highway Authority would seek amended plans and would seek the imposition of the following conditions.

Recommendation:

THE HEAD OF PLANNING, TRANSPORTATION AND ENVIRONMENT, ON BEHALF OF DEVON COUNTY COUNCIL, AS LOCAL HIGHWAY AUTHORITY, RECOMMENDS THAT THE FOLLOWING CONDITIONS SHALL BE INCORPORATED IN ANY GRANT OF PERMISSION

1. No development shall take place until details of the layout and construction of the access have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented before [the development is brought into use].

REASON: To ensure the layout and construction of the access is safe in accordance with paragraph 32 of NPPF

2. The site access road shall be hardened, surfaced, drained and maintained thereafter to the satisfaction of the Local Planning Authority for a distance of not less than 6.0 metres back from its junction with the public highway.

REASON: To prevent mud and other debris being carried onto the public highway.

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

REASON: In the interest of public safety and to prevent damage to the highway.

4. Off-Site Highway Works No development shall take place on site until the off-site highway works for the provision of footway widening to 2.0 m over the entire site frontage has been submitted to and approved by the Local Planning Authority and have been constructed and made available for use.

REASON: To minimise the impact of the development on the highway network in accordance with Paragraph 32 of NPPF.

5. Visibility splays shall be provided, laid out and maintained for that purpose at the site access to provide inter visibility for vehicles taken from a point 2.4m back along the centre line of the access and extending to a point on the nearside carriageway edge 43 m either side of the access and with no obstruction greater than 600mm, and that pedestrian visibility shall be provided on either side of the access within a splayed area 1.5 m by 1.5 m with no obstruction greater than 600mm.

REASON: To provide adequate visibility from and of emerging vehicles.

CREDITON TOWN COUNCIL - 23rd June 2016 - Recommend Objection as the design still remains inappropriate for the area.

CREDITON TOWN COUNCIL - 21st April 2016 - OBJECT for the following reasons:

The design is inappropriate for the area. The unsympathetic design will adversely impact on the current street scene.

The exit onto Jockey Hill is narrow and lacks adequate visibility.

Please note: Crediton Town Council requests a meeting with Ward members and the Planning Officer to discuss the application further.

ENVIRONMENTAL HEALTH - 18th April 2016

Contaminated Land - See attached

Air Quality - no objections to this proposal

Environmental Permitting - N/A

Drainage - no objections 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 - I have no objections to this proposal

Licensing - No comments

Food Hygiene - N/A

Private Water Supplies INFORMATIVE NOTE:

No record is held as being a private supply. However, if a private water supply is to be used 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 - 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.

Contaminated Land

1. Site Characterisation

As recommended in the Red Rock Geoscience Ltd phase 1 report, a basic Phase 2 intrusive investigation must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

(i) a survey of the extent, scale and nature of contamination;

(ii) an assessment of the potential risks to:

- human health,
- property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
- adjoining land,
- groundwaters and surface waters,
- ecological systems,
- archaeological sites and ancient monuments;

(iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

2. Submission of Remediation Scheme

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as

contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

3. Implementation of Approved Remediation Scheme

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

NATURAL ENGLAND - 11th April 2016

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.
The Wildlife and Countryside Act 1981 (as amended).

The Conservation of Habitats and Species Regulations 2010 (as amended) Natural England's comments in relation to this application are provided in the following sections.

Statutory nature conservation sites - no objection

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

Protected species

We have not assessed this application and associated documents for impacts on protected species. Natural England has published Standing Advice on protected species. You should apply our Standing Advice to this application as it is a material consideration in the determination of applications in the same way as any individual response received from Natural England following consultation.

REPRESENTATIONS

Four representations have been received generally raising concerns about the scheme for the following reasons:

1. Design is unsympathetic with the 10 houses at the rear and to the general character of Jockey Hill.
2. The design is too industrial in character.
3. The access arrangements are considered to unacceptable in highway safety terms, in particular for pedestrian movements - access should through the existing housing estate.
4. An alternative use for the Sure Start building should have been sought.

MATERIAL CONSIDERATIONS AND OBSERVATIONS

COR15 of the Mid Devon Core Strategy identifies Crediton as a small market town in the district where development is promoted to an appropriate scale, including new housing.

Therefore the application scheme is supportable in policy terms subject to consideration of the relevant matters as discussed below. The development is below the threshold in terms of affordable housing provision.

1. Layout, design, amenity and visual impact

2. Highway and Parking Issues

3. Other matters- Loss of a community facility air quality, open space, bin storage

1. Layout, design, amenity and visual impact

The houses have been designed as a cluster of contemporary units set around in a courtyard style environment within a distinct character different from the more traditional brick and tile approach that was employed for the 10 new houses to the rear.

As stated above the Conservation Officer has provided advice to the applicant regards amending the palette of materials so that whilst the units remain contemporary in design, as described above but with a toning down of the palette so that the new houses will appear more managed and less eclectic in their design.

As set out above the design of the units have been amended accordingly, and drawing no 1510-103 revB, indicates how the units and the alterations at the site will sit within the street scene. Whilst their impact from Jockey Hill will be more noticeable than the existing low level building, the new units will sit below the ridge height of the more traditionally designed houses to the rear and adjacent to the north. This is achieved in part as a result of the design of house (minimal roofscape detail) and the proposed remodelling works to the site to form the development area. The palette of materials has been amended so that they will not be seen in such stark contrast with the thro render panelling sitting comfortably with the brick background to the rear.

The site is clearly important, sitting as part of the Jockey Hill street scene which includes a number of housing styles, To the south of the site the dwellings which have been constructed with rendered and tile hung walling front directly on to the highway, with the dwellings to the north backing onto the highway behind a strong boundary feature to the extent that you are not aware of the housing behind. The streetscape is further broken up with Longmeadows and Prince of Wales Road forming junctions with it to serve new housing estates.

Notwithstanding the scope of the changes to how the new houses will sit within the street scene, the Town Council remain concerned about the design echoing the comments of the four local stakeholders who have submitted representations about the design of the application scheme.

In terms of completing this part of the assessment of the application, local distinctiveness is sought in Policy COR2 through high quality sustainable design reinforcing the character and legibility of the built environment and creating attractive places.

Policy DM2 of the Local Plan Part 3 Development Management Policies sets out criteria in relation to the design of the proposed building which must be of high quality, based upon and demonstrating the following principles.

- a) Clear understanding of the characteristics of the site, its wider context and the surrounding area;
- b) Efficient and effective use of the site, having regard to criterion (a);
- c) Positive contribution to local character including any heritage or biodiversity assets and the setting of heritage assets;
- d) Creation of safe and accessible places that also encourage sustainable modes of travel such as walking and cycling;
- 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
 - ii) Siting, layout, scale and massing
 - iii) Orientation and fenestration
 - iv) Materials, landscaping and green infrastructure

In terms of how the proposed scheme will sit within it's context an overview is set out below:

Whilst the form of the dwellings remains contemporary the palette of materials in particular for the walling has been revised so that it is more in keeping in visual terms with the typical crediton palette consisting of red brick with a tiled roof. Given the design approach for the houses a standing seam roof is considered acceptable given the form of the building blocks and now that the walling detail is less eclectic than originally proposed.

The landscaping to the boundary between the site and the highway has been strengthened since the application was originally submitted with new tree planting on the bank to continue the verdant character, and also soften the overall impact of the new built form.

From a massing point of view the houses remain below the ridge height of the new houses at the rear, and manage the step change between the houses above and below the site.

In addition to considering context and, street scene issues Policy DM14 also requires a review of the quality of the new housing for future occupiers and the relationship that it will have with any neighbours to the site. The space standards set out at policy DM15 have now been superseded by the Technical housing standards - nationally described space standard issued in March 2015 and which set a minimum size of 124sqm for a 2 storey, 4 bed.

The proposed dwellings all provide floor space that exceeds these minimum requirements, with flexible living spaces. The proposed plot boundary treatments are confirmed as follows:

Boundary to Jockey hill - 1.1m high timber post /rail and mesh fence to support new hedging/bushes on bank establish.

Boundary to new houses - 1.8m high double faced feather edged timber fencing with some climbers on trellis.

Boundary to higher side [north] - as rear cut in to ground, timber cribblock walling proposed which can be planted up.

Boundary to lower side [south] - existing brick wall to be retained approx. 1.2 m high together with existing vegetation.

Plot1: The side elevation of the house on plot 1 is located approximately 6.0 metres from the closest adjacent property in the new estate to the west, and although it has a large bathroom window at upper level which could have an outlook towards to the side elevation and part garden area of this property a condition is imposed to ensure that the glazing is obscured to manage privacy issues. The house has been designed so that there are a number of upper level windows at the rear but given the separation distance and change in levels to the house building directly to the north this relation is considered acceptable.

The scheme is designed so that the houses on plots 2 and 3 are a detached pair facing plot 1, with a separation distance of over 20 metres. The side elevation of the house on plot 2 is just over 20 metres from the closest property in the new estate to the west but with no upper level windows. The rear elevations of the houses on plots 2 and 3 are designed to include windows which have an outlook to the south, however given the change in levels to the doctors surgery immediately to the south (with residential properties beyond) the outlook from ground floor, upper floor and the respective garden areas is considered to be acceptable.

Whilst the development will be clearly be evident for the occupiers of the house plots on the other side of Jockey Hill adjacent to the site, given the separation distance and orientation of the respective dwellings, it is not considered that the proposals would adversely affect the amenities and/or living conditions for the occupiers of these properties to justify refusing planning permission.

In summary taking into account the proposed boundary treatments the insertion of three dwellings in this location is considered to present an acceptable relationship with the surrounding houses and land-uses adjacent. Although the design is more contemporary than the estates that have traditionally been built out in Crediton, the scheme overall and the individual houses result in a scheme that is sympathetic to the street scene, and considered to be supportable by the relevant policies (COR2, DM2 and DM14).

2. Highway and parking issues

The existing access to the site is from Newcombe Hill. The houses will be accessed from a new access off Jockey Hill. Since the original submission the details have been amended so that the new means of access is acceptable in terms of the width of the new road (3.8 metres between entrance piers), gradient and visibility splays, which are now designed to satisfy the design standards set by the Highway Authority. The layout achieves a satisfactory level of on plot parking that meets the adopted standard at DM8, excluding the

garages.

On the basis of the revised plans the Highway Authority raise no objection to the scheme. Whilst local residents have expressed concern about highway safety, existing users on the network and the proposed occupiers of the new houses, on the basis the concerns initially expressed by the Highway Authority have been satisfied, the proposal is considered to be in accordance with policy DM8 and COR9.

3. Other matters- Loss of a community facility air quality, open space, bin storage

The Sure Start facility has been closed for well over 18 months and it is intended that the building will be relocated to the Copplestone Primary School campus for continued use as an education resource in the locality. Given the range of community facilities that are provided in Crediton, a residential use on the site is considered acceptable in policy terms (policy DM25).

S106 issues: The applicant has completed a deed under section 106 of the Planning Acts and provided a contribution of £4,236.00 which will be spent on equipment at the Newcombes Meadow Park Play in accordance with policy AL/IN/3. Although, the site qualifies to make a contribution towards improving air quality within the Crediton AQMA under the terms of AL/CRE/8 given the trips on the highway generated by the Sure Start facility with 8 staff and 35 children, a contribution in this case is not considered necessary and/or justified.

Each of the properties has a large curtilage area and sufficient hardstanding area for bin storage. See also condition as recommended.

The proposed dwellings would be eligible for counting towards the New Homes Bonus. If the New Homes Bonus is distributed across Council Tax Bands in the same way as in 2015, the award for each house would be £1,028 per year, paid for a period 6 years. The amount of New Homes Bonus to be generated by this development would be £18,504.00.

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. Notwithstanding the provisions of Article 3 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any Order revoking and re-enacting that Order with or without modification) no development of the types referred to in Classes A, B, C or D of Part 1 of Schedule 2, relating to extensions, additions and alterations to the roof and porches shall be undertaken without the Local Planning Authority first granting planning permission.
4. Before the commencement of the development hereby permitted samples of the materials to be used for all the external surfaces of the building shall be submitted to and approved in writing by the Local Planning Authority.
5. Before the commencement of the development hereby permitted working details of the new external doors/door frames/windows, including sections, mouldings and profiles, finishes and glazing shall be submitted to, and be approved in writing by, the Local Planning Authority. Installation of the doors/door frames/windows shall be in accordance with these approved details, and be so retained.
6. None of the dwellings hereby approved shall be occupied until plans have been submitted to and approved in writing by the Local Planning Authority confirming the refuse storage, and area/facilities allocated for storing of recyclable materials on plot and in terms of a collection point off plot. The details as shown on the approved plans shall be completed prior to the houses being occupied. Thereafter, all refuse and recyclable materials associated with the development shall either be stored

within this dedicated store/area, as shown on the approved plans, or internally within the building(s) that form part of the application site. No refuse or recycling material shall be stored or placed for collection on the public highway or pavement, except on the day of collection.

7. The commencement of the development of the approved dwellings shall not take place until the construction of the access incorporating the provision of the visibility splay detail as shown on approved drawing 1510 -101B has been completed.
8. Prior to the commencement of any work relating to the construction of the dwellings hereby approved, the site access shall be hardened and surfaced for a distance of not less than 6.0 metres back from its junction with the public highway and drained, in accordance with details that shall have been submitted to and approved in writing by the Local Planning Authority beforehand.
9. No development of the dwellings shall commence until details of the off-site highway works for the provision of footway widening to 2.0 m over the entire site frontage have been submitted to and approved in writing by the Local Planning Authority and the approved details shall have been constructed and made available for use prior to the occupation of the dwellings.
10. 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.
11. Prior to the commencement of any development a Phase 2 intrusive investigation must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:
 - (i) a survey of the extent, scale and nature of contamination;
 - (ii) an assessment of the potential risks to:
 - human health,
 - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
 - adjoining land,
 - groundwaters and surface waters,
 - ecological systems,
 - archaeological sites and ancient monuments;
 - (iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.
12. Following the completion of requirements of condition 11 if necessary a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.
13. The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the

effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

14. The first floor window within the western elevation of the proposed house on plot 1 hereby approved, shall be obscure glazed and non-opening and retained as such unless otherwise agreed in writing with the Local Planning Authority.

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 size of the replacement dwelling reflects the requirements of Policy DM12 of the Local Plan part 3 (Development Management Policies) and to ensure development makes a positive contribution to the visual amenities of the area in accordance with Policy DM2 of the Local Plan Part 3 (Development Management Policies).
4. To ensure the new building is of an acceptable standard and makes a positive contribution to the visual qualities of the area in accordance with policy DM2.
5. To ensure the new building is of an acceptable standard and makes a positive contribution to the visual qualities of the area in accordance with policy DM2.
6. To safeguard the amenity of the occupiers of adjoining premises, protect the general environment, and prevent obstruction to pedestrian movement, and to ensure that there are adequate facilities for the storage and recycling of recoverable materials, and in accordance with policy DM2.
7. To ensure the layout and construction of the access is safe in accordance with paragraph 32 of National Planning Policy Framework.
8. To prevent mud and other debris being carried onto the public highway.
9. To minimise the impact of the development on the highway network in accordance with Paragraph 32 of National Planning Policy Framework.
10. To ensure that the proposed development does not prejudice the amenities of neighbouring properties.
11. To protect the occupiers of the houses from risk from contamination in accordance with policy DM7 of Mid Devon Local Plan Part 3 (Development Management Policies).
12. To protect the occupiers of the houses from risk from contamination in accordance with policy DM7 of Mid Devon Local Plan Part 3 (Development Management Policies).
13. To protect the occupiers of the houses from risk from contamination in accordance with policy DM7 of Mid Devon Local Plan Part 3 (Development Management Policies).
14. To protect the amenity of occupiers of the neighbouring property in accordance with policy DM2 and DM13 of Mid Devon Local Plan Part 3 (Development Management Policies).

REASON FOR APPROVAL OF PERMISSION/GRANT OF CONSENT

The application for the erection of three dwellings within the settlement boundary of Crediton, is considered to be supportable in policy terms. The dwellings are considered to be appropriately scaled and designed in a contemporary style which is considered acceptable in this case given the street scene and local context. The layout is considered acceptable in terms of the relationship with the surrounding properties with no significant harm to amenity arising. The new access will not result in highway safety concerns and it is not considered that the alterations would cause unacceptable harm to the character and amenity of the area given the various access points off of Jockey Hill. The proposal includes sufficient parking in accordance with policy DM8. The applicant has made satisfactory provisions to secure appropriate mitigation against the need to provide new open space off site (and/or maintenance of existing). The proposal is considered to be compliant with the requirement of relevant policies: CO1, COR2, COR9 and COR15 of the Mid Devon Core Strategy (Local Plan Part 1), DM1, DM2, DM8, DM14, DM25 of the Local Plan Part 3 (Development Management Policies), AL/IN/3 of the Allocations and Infrastructure Plan Document (Local Plan Part 2) and government guidance in the National Planning Policy Framework.

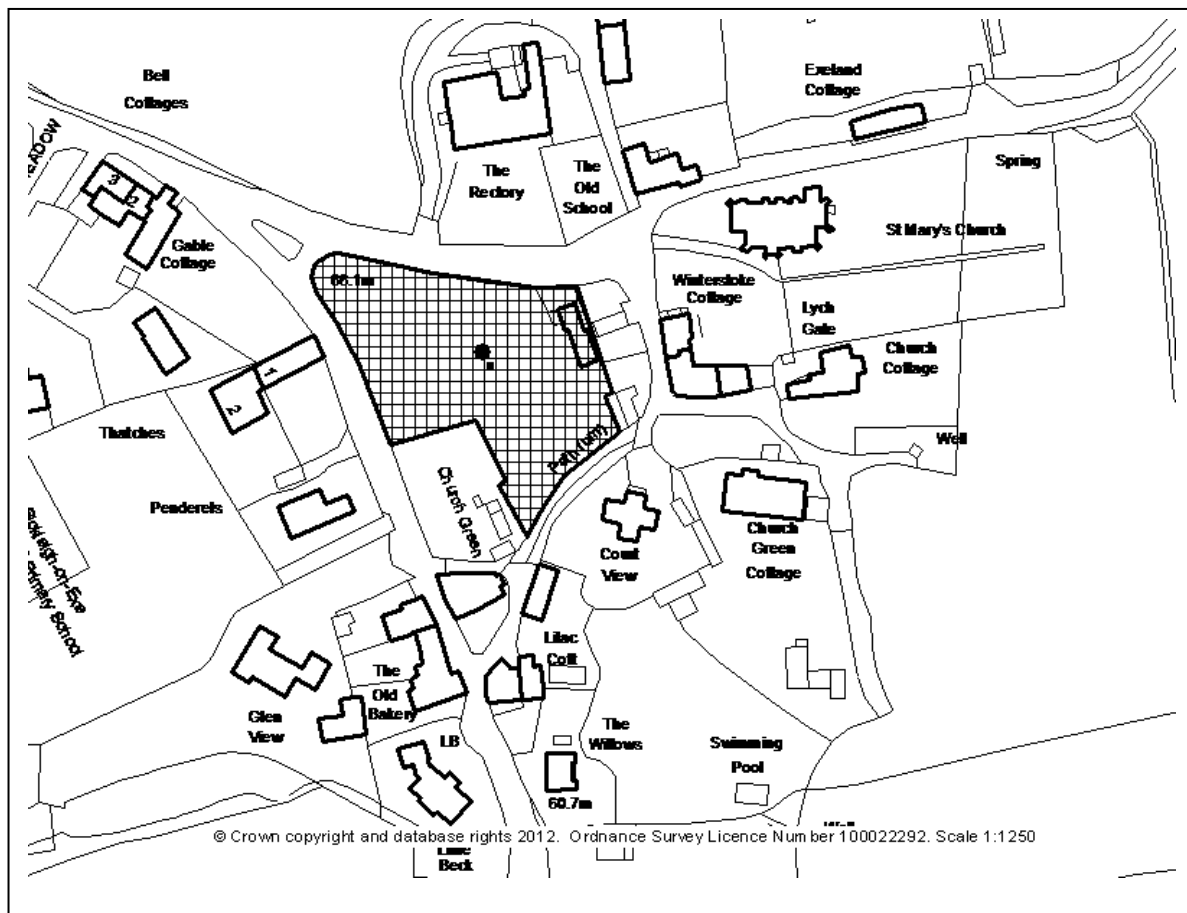
Grid Ref: 294162 : 107150

Applicant: Mr Julian Hewitt

Location: Land and Buildings at NGR
294162 107150 (Site
Adjacent to Bickleigh
Church) Bickleigh Devon

Proposal: Outline for the erection of 4
dwellings (Revised Scheme)

Date Valid: 1st April 2016



Application No. 16/00465/OUT

RECOMMENDATION

Grant permission subject to conditions.

CLLR R DEED HAS REQUESTED THAT THIS APPLICATION BE DETERMINED BY THE PLANNING COMMITTEE FOR THE FOLLOWING REASON:

To consider the impact on the historic environment given the proposal's location within Bickleigh Conservation Area and proximity to a number of listed buildings.

PROPOSED DEVELOPMENT

Outline for the erection of 4 dwellings (Revised Scheme)

This application proposes the construction of 4 dwellings on a site in the village of Bickleigh. The site currently comprises tin sheds which adjoin the eastern boundary which would be demolished; the remainder of the site has no buildings. The dwellings are proposed as two pairs of semi-detached properties in the eastern part of the site with gardens to rear and eight parking spaces to the front. The remainder of the site is proposed as public open space. The site lies within the Bickleigh Conservation Area and a number of listed buildings surround the site including the grade II* Church of St. Mary to the north east. This is an outline application which considers access, appearance, layout and scale; landscaping is the only reserved matter for later determination.

APPLICANT'S SUPPORTING INFORMATION

Overview to application and planning statement

Design and Access Statement

Heritage Statement

Ecology Report

Transport technical note

Letter to Mid Devon District Council re proposed designation as Heritage Asset and Local Green Space

Results of an Archaeological Trial Trench Evaluation

PLANNING HISTORY

84/01244/FULL Erection of garage - PERMIT – September 1984

02/00366/OTHER Conservation Area Consent for the demolition of garages - Deemed Withdrawn - October 2002

05/02060/FULL Erection of 2 no. dwellings with detached garages, alteration of existing vehicular access, and formation of new vehicular access - Withdrawn – November 2005

07/00166/CAT Notification of intention to fell 1 Eucalyptus and 1 Ash tree within a conservation area - PERMIT – March 2007

12/01684/OUT Outline for the erection of 4 dwellings and associated access and communal parking Withdrawn – January 2013

15/00109/OUT Outline for the erection of 4 dwellings and associated access and communal parking (Revised Scheme) - REFUSED – March 2015

DEVELOPMENT PLAN POLICIES

Mid Devon Core Strategy (Local Plan 1)

COR2 - Local Distinctiveness

COR3 - Meeting Housing Needs

COR11 - Flooding

COR18 - Countryside

Mid Devon Local Plan Part 3 (Development Management Policies)

DM1 - Presumption in favour of sustainable development

DM2 - High quality design

DM14 - Design of housing

DM15 - Dwelling sizes

DM27 - Development affecting heritage assets

DM26 - Protection of recreational land and buildings

CONSULTATIONS

HIGHWAY AUTHORITY - 15th June 2016

Thank you for the recent amended plans notification.

The Highway Authority conditions still remain. However, the pedestrian access from the development to the public highway Opposite Thatches will also require a visibility splay of similar distances along the road therefore a splay measuring 1.5m back along the centre of the footpath and extending to a point 25m either side with no obstruction greater than 600mm should be provided in a similar manor to that of the access visibility.

HIGHWAY AUTHORITY - 11th April 2016

THE HEAD OF PLANNING, TRANSPORTATION AND ENVIRONMENT, ON BEHALF OF DEVON COUNTY COUNCIL, AS LOCAL HIGHWAY AUTHORITY, MAY WISH TO RECOMMEND CONDITIONS ON ANY GRANT OF PLANNING PERMISSION

1. Visibility splays shall be provided, laid out and maintained for that purpose at the site access where the visibility splays provide intervisibility between any points on the X and Y axes at a height of 0.60 metres above the adjacent) carriageway/drive level and the distance back from the nearer edge of the carriageway of the public highway (identified as X) shall be 2.40 metres and the visibility distances along the nearer edge of the carriageway of the public highway (identified as Y) shall be 25.00 metres in both directions.

REASON: To provide adequate visibility from and of emerging vehicles.

2. The site access road shall be hardened, surfaced, drained and maintained thereafter to the satisfaction of the Local Planning Authority for a distance of not less than 6.00 metres back from its junction with the public highway.

REASON: To prevent mud and other debris being carried onto the public highway 3. In accordance with details that shall previously have been submitted to, and approved by, the Local Planning Authority, provision shall be made within the site for the disposal

of surface water so that none drains on to any County Highway.

REASON: In the interest of public safety and to prevent damage to the highway.

4. Prior to commencement of any part of the site the Planning Authority shall have received and approved a Construction Management Plan (CMP) including:

(a) the timetable of the works;

(b) daily hours of construction;

(c) any road closure;

(d) hours during which delivery and construction traffic will travel to and from the site, with such vehicular movements being restricted to between 8:00am and 6pm Mondays to Fridays inc.; 9.00am to 1.00pm Saturdays, and no such vehicular movements taking place on Sundays and Bank/Public Holidays unless agreed by the planning Authority in advance;

- (e) the number and sizes of vehicles visiting the site in connection with the development and the frequency of their visits;
- (f) the compound/location where all building materials, finished or unfinished products, parts, crates, packing materials and waste will be stored during the demolition and construction phases;
- (g) areas on-site where delivery vehicles and construction traffic will load or unload building materials, finished or unfinished products, parts, crates, packing materials and waste with confirmation that no construction traffic or delivery vehicles will park on the County highway for loading or unloading purposes, unless prior written agreement has been given by the Local Planning Authority;
- (h) hours during which no construction traffic will be present at the site;
- (i) the means of enclosure of the site during construction works; and
- (j) details of proposals to promote car sharing amongst construction staff in order to limit construction staff vehicles parking off-site
- (k) details of wheel washing facilities and obligations
- (l) The proposed route of all construction traffic exceeding 7.5 tonnes.
- (m) Details of the amount and location of construction worker parking.
- (n) Photographic evidence of the condition of adjacent public highway prior to commencement of any work;

ENVIRONMENTAL HEALTH - 18th April 2016

Contaminated Land - no objections to this proposal

Air Quality - no objections to this proposal

Environmental Permitting - N/A

Drainage - no objections 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 - no objections to this proposal

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, 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 - No objections to this proposal enforced by HSE

BICKLEIGH PARISH COUNCIL - 28th June 2016

We refer to your letter of the 14 June 2016 in connection with the above application which this Parish Council remains strongly opposed to.

Firstly, we refer to the new sections:- The E-W section on drawing no.1429/PL/06C, drawn as it is, gives a false impression of the relationship between the proposed 'new' buildings and the existing surrounding buildings. Both the Yew tree and the Church Tower appear to have been drawn disproportionately high. The tree is shown as some 18m tall but is nowhere near that height in reality. Similarly, the Church Tower is shown as approximately 25m high whereas in fact it actually measures 19.3m. The N-S section on drawing no. 1429/PL/01C is similarly misleading as not only are the heights incorrect as above but they have also been shown in the same plane as the cross section which gives an incorrect impression of perspective. These drawings give a totally misleading impression of what is an intrusive development right in the centre of this conservation area.

Secondly, we refer to the Highways Officers requirements:- He states that a visibility splay of 25m in both directions at a height 0.60m above the carriageway at each entrance to the site is required. At the North entrance, where the access road meets the highway, this is not possible to the east as it would encroach into land belonging to another property and to the west it would destroy a substantial proportion of the ancient hedgerow. Likewise with the entrance to the newly added footpath where it meets the highway on the western boundary. To the south the splay again encroaches into another property and to the north it would destroy most of the bank back to the road junction and in this respect we would again draw your attention to the fact that this is a conservation area. There is also no mention of the taking on of the responsibility of keeping the 'visibility' section of hedgerow cut to 0.60m in height.

Thirdly, we wish to raise strong objection to the inclusion of this new footpath across the site. There is a perfectly adequate existing footpath just a few metres away. This addition is neither required nor wanted and we refer you to the previous paragraph with regard to the damage its installation would cause. In a practical sense, the proposed footpath is ineffective, with a number of steps at the western end which would present difficulties to both parents with pushchairs and people with mobility issues. Fourthly, could we please have clarification as to the meaning of the term on the drawings where it is stated that the existing historic footpath should be "restored". With regard to the Government's drive to more local democracy, we would again draw your attention to the fact that all the letters of objection are from parishioners, in other words, local people, whereas the letters of support, apart from the fact that many seem to bear the same surname, are from outside of the parish - Collumpton, Tiverton, Cadeleigh, Bradninch, Bolham, Calverly, Thorverton, Lapford, Puddington, Exeter, Nr. South Molton, and even as far afield as Bournemouth. Hardly 'local' representation. Not one letter of support actually from Bickleigh Parish. We understand that the Church representatives have stated that so far as they are concerned, the offer of 'parking spaces' for 'Church use' is a non-starter and would also draw your attention to the fact that no plans have been put in place to cover the maintenance of the 'Public' areas of the site, post completion. The PC have already stated that they will not become involved, so it imperative that such a scheme be included along with the necessary funding, preferably by means of some form of Trust, to cover it's future costs. So far as we are able to ascertain, no Conservation Area Appraisal has been carried out for Bickleigh Parish since 1984. Our Local History Group are carrying out just such an exercise along the lines of MDDC's recent appraisal for Thorverton Parish. This will be forwarded to you under separate cover.

BICKLEIGH PARISH COUNCIL - 9th May 2016

Please note that this Parish Council unanimously object strongly to this proposal and recommend in no uncertain terms that it be refused. Apart from the handing of the two pairs of dwellings, this application is identical to the previous application and as far as the planning criteria are concerned, apart from the site being - for the time being - removed from the Heritage Asset list, little has changed from MDDC's refusal of the previous application in 2015. Our decision is reached on the following grounds:-

1. The development does not accord with the requirements of the National Planning Policy Framework, also MDDC's Devon Structure Plan 2001-2016, the Adopted Mid Devon Local Plan, Mid Devon Core Strategy (Local Plan) and particularly, the Mid Devon Local Plan Part 3 (Development Management Policies) - DM27 - Development affecting Heritage Assets - to this Parish, the site is a Heritage Asset.

2. Creation of additional traffic movements on narrow Village roads and all that this entails, bearing in mind that at various times of the day, because there is a Primary school in the village, one finds young school children milling around.

3. There is already a problem with run-off from the west - or lower - side of this site in periods of rain. Laying tarmac or concrete over a substantial area will only serve to exacerbate the problem and increase the possibility of surplus surface rainwater ingress to the vulnerable listed properties opposite. Provision of soakaways would only help alleviate this for a relatively short period of time.

4. This site is within a conservation area and the historic core of the village.

5. This site, is a registered green space because of its historical importance to the Village - it could be the site of the then Saxon manor house and then for many years, agricultural land and subsequently residential. It has never been used for any type of commercial or industrial purposes. It is not a brownfield site.

6. Presumably the two smaller houses are supposed to be 'affordable houses' whilst they may be slightly cheaper, they could not be classified as affordable to first time buyers, simply because Bickleigh, because of it's still relatively unspoilt character is a sought after area and commands premium prices.

7. From the point of view that there is a reasonably constant availability of properties for rent or purchase there is little requirement for further development. As it happens there are currently three properties for sale in the village which have been on the market for quite some time.

8. There is a significant degree of local opposition to any development of this site on the basis that it would have a detrimental effect upon the character of what is the old centre of the village and the surrounding plethora of listed properties including the Church... In this respect particularly, there are few villages left in this county that have not been spoilt and indeed had the heart ripped out of them by what, certainly in hindsight, is totally inappropriate development.

Bickleigh is still one village that is reasonably still in tact. One has, over time, gleaned from comments made by a substantial numbers of visitors that this is the one thing that particularly attracts them to the area and it is primarily these visitors that maintain the few businesses that still remain.

A survey carried out in the Parish a while ago determined that some 90% of the high proportion of respondents was opposed to any further development in this Village - MDDC are in possession of this information.

9. It is important that where possible, the County's heritage is not entirely lost or swamped by what some may euphemistically refer to as progress.

10. Local service supplies - sewerage, electricity supply and water supply are, one is given to understand, currently running at their capacity.

12. Further development will do nothing to improve the quality of the built, "natural and historic environment".

13. Referring to the documents submitted by the applicant entitled 'OVERVIEW TO APPLICATION AND PLANNING STATEMENT', headed up 'MID DEVON DISTRICT COUNCIL', together with the 'HERITAGE STATEMENT' we would refer you to the attached detailed analyses which clearly show the adverse impacts of these documents outweigh any benefits to the area - see NPPF para's. 14 and 17. We would, however, take the opportunity to, at the risk of duplicating statements in the attached, make particular references to the "public car parking provision" provided for in the application and the claimed "support for the previous application". Firstly, the additional five car parking spaces are purely a sop. They will be of no benefit to the School Children's parents, a) they never come that far up the road and b) the School themselves operate a successful shuttle service down to a pick-up point in the DCC car park near the Mill in order to save the parents from having to drive into the Village, attendance at the Church is minimal and declining and is confined primarily to Sundays when there are no problems with 'on road parking' and there is of course little doubt that they will at some stage get used by the residents of the proposed new homes as these days, three cars or more per family is not uncommon.

Secondly, the letters of 'support' for the previous application emanated from here there and everywhere, except from this locality, as indeed have the letters of support thus far received for this current application.

This is not a development either supported or wanted by the residents of this Parish, as is evident from both the survey which we recently carried out and of which you have a copy and the multitude of Parish based representations against the previous application and, one has no doubt, will manifest themselves against this one. Whilst on the subject of this 'document', we would draw your attention to the photograph of the field contained therein. This is not church Green, it a photograph of another field in the Village.

14. One is given to understand that it has been suggested that the 'landscaped and parking areas' within this application could or should be donated to the Parish upon completion of the project.

Please be fully aware that this Parish Council will not accept this, nor will the responsibility for future maintenance costs be taken on board.

NATURAL ENGLAND - 22nd June 2016 - No comments.

NATURAL ENGLAND - 7th April 2016

Natural England has previously commented on this proposal and made comments to the authority in our letter dated 4th February 2015.

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.

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.

CENTRAL AREA CONSERVATION OFFICER - 21st April 2016

This site lies in the historic core of Bickleigh, within Bickleigh conservation area and with various listed buildings in the vicinity including the grade II* Bickleigh church.

Proposal

Erection of 4 dwellings with associated parking, parking for the church and an area of green open space for use by the community

Impact on the listed building and/or conservation area.

Preliminary comments - please could I request some additional information to inform the assessment of the application. I think it would be useful to have:

1. Sections through the site (as proposed) and beyond to be able to see relative heights and relationships between structures (both north/south and east/west). This will also allow us to understand more easily what part of the proposed housing will be seen from the churchyard etc.
2. Whilst the application does show previous thoughts about layout within the site, it would be useful for a little more information on why the houses have been located in the 'centre' of the site - layouts of housing in Bickleigh vary hugely but in general tend to be either front on or gable on to the road. Is this not possible for the site? If not, why not?
3. There are some elements of the design that I would suggest should be 'tweaked' if the application is allowed but I will comment more fully on those at a later date - these relate to the house design details and their very close semi-detached layout.
4. Is pedestrian access to the community space not possible without going through the car parking area, for example? I realise that this would create a break in the hedge and bank and that levels are very different but it would be more centrally accessible.
5. The heritage report is better than previously - it does mention a little about the relationship (if any) between Bickleigh Castle complex and Bickleigh village. Could the archaeologist confirm if Bickleigh Castle was researched in terms of any written evidence of relationship between the village and the castle - I would like to check that any evidence of inter-relationship is identified, if it exists.
6. Whilst the heritage report has been submitted I find it interesting to note that DM27 is not discussed at all in the policy section of the submission. The heritage statement does not replace this and I feel that it is an odd omission.

Summary

Further information please so that the heritage impact can be appropriately assessed.

HISTORIC ENGLAND - 6th July 2016 - We do not wish to comment in detail, but offer the following general observations.

Historic England Advice

In our previous letter we made comments on the layout and orientation of the proposed new dwellings and suggested possible amendments that would better reflect the character of the conservations area. No change has been made in that respect, so our previous comments still stand.

We also requested that site sections were provided to confirm the relative heights of the proposed new dwellings in relation to nearby listed buildings, and the parish church in particular. A drawing has now been submitted to clarify that relationship which illustrates the new dwellings as being set well below the platform on which the church is constructed, and of diminutive size in comparison to it. This suggests that there will be no visual competition between the new houses and the church, but since the height of the church tower is estimated only, we would advise your Authority to satisfy itself on the accuracy of the relative heights depicted.

Since one of the stated intentions of the scheme is to retain a sense of open green space on the site, we would hope that its natural hedgerow boundaries can be maintained as close to their existing appearance as possible and the impact of new accesses to the site - whether vehicle or pedestrian - can be kept to a minimum.

Recommendation

We would urge you to address the above issues, and recommend that the application should be determined in accordance with national and local policy guidance, and on the basis of your specialist conservation advice. It is not necessary for us to be consulted again. However, if you would like further advice, please contact us to explain your request.

HISTORIC ENGLAND - 28th April 2016 - We have twice commented on similar previous applications for this site, most recently in 2015, when we did not consider development of this village centre site to be inherently unacceptable, given the lack of evidence of its archaeological or historical significance. However, we questioned the position and orientation of the houses within the site and their relationship to the overall character of Bickleigh conservation area, together with the lack of a clear rationale for this within the application.

This application retains essentially the same scheme, but with an expanded Heritage Statement, which is intended to address those issues and provide more evidence regarding the history and significance of the site. It is slightly disappointing that it does not address the site context and relationship to conservation area character in the depth we had requested. (Our previous recommendation was for an assessment to be undertaken of the "grain of development within the village, spatial relationships between buildings, streets and open areas, significant views and the disposition/orientation of houses within the conservation area").

The Design and Access Statement illustrates some alternative layouts that had been considered, but we are not entirely convinced by its rationale for the configuration and location of the development within the site, or that alternatives don't exist which could provide more of a street frontage. Siting the houses end-on to the highway and the footpath do not, in our view, create frontages which have an active relationship with those public routes. It might have been possible, however, to have a dwelling fronting onto the road at the north-east corner of the site (as shown in options that were rejected), which then returned as a row running N-S. This would be more in keeping with the general disposition of pre-1900 dwellings in the village and give a better relationship between the development and the existing 'grain' of traditional houses which provide the context for this site.

In terms of understanding the potential impact of this development on the setting of the grade II* listed church, as well as other listed buildings, it would be helpful if cross-sectional drawings of the proposed scheme were provided showing it in relation to the church, other adjacent buildings and vegetation. This

would be particularly helpful given the raised levels of land within the site in relation to adjacent roads, which are noted within the planning documents, which might increase the overall visual impact of the dwellings.

Recommendation

We would urge you to address the above issues, and recommend that the application should be determined in accordance with national and local policy guidance, and on the basis of your specialist conservation advice. If you would like further advice please contact us to explain your request.

HISTORIC ENVIRONMENT SERVICE - 22nd June 2016

With regard to the putative enclosure that has been suggested to be centred on the parish church of St Mary, suggested by the field boundaries on the north side of the road where it runs around and encloses The Rectory and the orchard to the north of Exeland Cottage. I visited site with Catherine Marlow (MDDC Conservation Officer) on the 2nd June 2016 to examine the site and in the light of this site visit have the following comments:

1. To the north of the road the field boundary that forms the north-western arc of the enclosure around The Rectory has been created by raising ground level to create a level driveway at the front of the building and is likely to date from the construction of the Rectory or its later gentrification in the 18th/19th century. There may be an earlier field boundary on this alignment sealed beneath the extant boundary, but there is no evidence for this and the extant boundary is definitely of post-medieval date and is not associated with an earlier medieval enclosure.
2. To the north of the road the field boundary that forms the north-eastern arc of the putative enclosure, to the north of Exeland Cottage, defines an area of historic quarrying that was later planted up as an orchard. It seems likely that this boundary simply defines the area of quarrying rather than being part of a medieval enclosure. The roadside dwellings here have also been terraced into the hillside here.
3. The downward slope of the land from east to west has meant that many of the historic extant buildings and their gardens, including the church, The Rectory and Exeland Cottage have been terraced in the slope, and I would regard this east-west slope sufficient enough to cast doubt upon the likely presence of a manorial enclosure centred on the parish church here.

In the light of our site inspection and the results of the archaeological evaluation of the site, I do not regard there to be sufficient evidence for the assertion that the proposed development site lies within a medieval enclosure centred on the parish church.

In addition, as stated previously, the proposed development site lies in an area where previous archaeological investigations have demonstrated the survival of a lower soil horizon that has yielded 12-13th century pottery. However, these investigations did not indicate any settlement or other intensive use of the site from this or earlier periods. Nevertheless, groundworks for the construction of the proposed development have the potential to expose further artefactual material from the medieval period as well as any small archaeological features (pits and post-holes) that may be present on the site.

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

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

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

Reason

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

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

HISTORIC ENVIRONMENT SERVICE - 13th April 2016

The proposed development site lies in an area where previous archaeological investigations have demonstrated the survival of a lower soil horizon that has yielded 12-13th century pottery. However, these investigations did not indicate any settlement or other intensive use of the site from this or earlier periods. Nevertheless, groundworks for the construction of the proposed development have the potential to expose further artefactual material from the medieval period as well as any small archaeological features (pits and post-holes) that may be present on the site.

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

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

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

REPRESENTATIONS

80 representations have been received, 30 in support, 46 in objection, and 4 making 'neutral' comments. These are summarised below:

Support:

1. Archaeological investigation has found no evidence of historic settlement on site
2. Questions evidence of location of manor at site given distance from chapel, castle and water source
3. Site has not been built on primarily been in private hands since 1800s unlike other Glebe lands
4. Design is in keeping
5. Sympathetically designed new thatched properties have been achieved elsewhere
6. Site was untidy and overgrown when purchased/has always been under-used/will be an improvement
7. Site is not on the Mid Devon Local Heritage Assets Register
8. Land is unused at present but could now be enjoyed by community
9. Absence of settlement limit does not mean no development acceptable
10. Unclear whether objectors believe there is a lack of or ample parking
11. Parking can be an issue at the church at present
12. Development will allow families an opportunity to settle in the village/housing needed in the village
13. Concern that objections are nimbyism
14. Supports but notes maintenance issues associated with thatch and requests use of other materials
15. Parish had opportunity to purchase site
16. It is possible to build new properties in old style to match existing - as has taken place with the fire-damaged School House

Objection:

1. Application not materially different from refused scheme
2. Revised plans do nothing to make development acceptable
3. Development not wanted by local community
4. Development is outside defined settlement limit and not in conformity with national and local planning policies
5. Development would be harmful to character and appearance of conservation area
6. Historic core of village needs protection
7. Will ruin beautiful Devon village
8. Evidence that site of great historic importance - possible location for Anglo-Saxon hunting lodge - site straddles an earthwork that may represent an enclosure associated with the lodge
9. Conservation Area Appraisal undertaken by Bickleigh Local History Group, which considers important views, character and open spaces
10. Site is on Mid Devon list of local heritage assets
11. Views in and out of site positively contribute to character and appearance of conservation area
12. Volume of traffic within village during rush hours given poor junctions is unsafe/road infrastructure

- cannot support additional housing
13. Proposal will block views across site, including across Exe Valley
 14. Proposal will obscure views of adjacent listed building School House and Church Green Cottage within immediate area and wider landscape
 15. Location not sustainable - no employment opportunities in village or farm shop as stated in application paperwork
 16. Proposal will result in invasion of privacy of neighbouring properties
 17. Damage to Devon hedgebank - more being removed than suggested by applicant
 18. Too high density for location
 19. This is not a brownfield site
 20. Proposal does not accord with village development pattern
 21. Application area includes land in objector's ownership which is not available for development
 22. Works could cause subsidence
 23. How many properties will be affordable?
 24. Site deliberately left untidy and overgrown by landowner
 25. Development will cause light pollution and air pollution
 26. Dwellings will look new and be out of keeping with surrounding listed properties
 27. Height of Church tower in drawings exaggerated - impact therefore greater
 28. Development will affect trees - these are incorrectly located on plans
 29. Footpath through site not wanted - who will maintain it?
 30. Footpath not suitable for mothers with pushchairs or those with mobility issues
 31. Site is registered as Local Green Space within Local Plan Review
 32. No plan for maintenance of parking spaces - Church has confirmed it will not take these on
 33. Development against wishes of Bickleigh community
 34. Developing site will encourage other infill applications
 35. Criteria for sustainable development not met - there is no shop in Bickleigh
 36. Historic England advice to move houses within plot has been ignored
 37. Water run-off will cause problems for properties below site
 38. Supporters are not local; objectors are parishioners
 39. Site would ruin habitats and affect wildlife
 40. Proposed community parking would only off-set loss once visibility splay put in place prevents parking on road
 41. No provision for turning facility within parking
 42. No capacity at Bickleigh Primary School
 43. Site should be purchasable to villagers and returned to village green
- Neutral:
44. Church does not have funds to take on management of parking
 45. If granted arrangements for maintenance of proposed public open space must be put in place to avoid neglect

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The main issues in the determination of this application are:

- 1. Policy & principle of development**
 - 2. Heritage impact**
 - 3. Design**
 - 4. Highways and transport**
 - 5. Biodiversity**
 - 6. Public open space and other considerations**
 - 7. Planning balance and recommendation**
- 1. Policy & principle of development**

Mid Devon District Council's Local Plan consists of the Core Strategy (Local Plan Part 1), Allocations and Infrastructure Development Plan Document (2010) 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 DPD contains development allocations to meet the need identified in the Core Strategy, and the Local Plan Part 3 provides a range of policies for the consideration of planning applications.

Policy COR3 establishes the existence of housing need within Mid Devon across the period 2006-2026. This application is located within the village of Bickleigh, and therefore Policy COR18 'Countryside' is also relevant. This policy states that residential development in areas defined as 'countryside' is strictly controlled and is limited to:

'Affordable housing to meet local needs, gypsy accommodation, replacement dwellings, housing essential to accommodate an agricultural or forestry worker and accommodation ancillary to a dwelling.'

The proposal is for 4no. market dwellings, the site falling below the Government-defined threshold for affordable housing provision. There is no policy support within COR18 for a scheme for 100% market dwellings; the scheme is therefore contrary to policy.

However, the Council's five year land supply position and the outcome of a recent appeal decision are material considerations in the determination of this application. The 'Land to the west of Uffculme' (ref APP/Y1138/W/15/3025120) appeal inspector concluded that the Council could not demonstrate a five year supply of deliverable housing sites as required by the National Planning Policy Framework (NPPF). He moved on to conclude that as a result, policies COR3, COR17 and COR18 of the Core Strategy were out of date. Paragraph 14 of the NPPF states that 'where the development plan is absent, silent or relevant policies are out-of-date, permission should only be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or specific policies in the Framework indicate development should be restricted.' Since the appeal was heard, the Council has been internally updating the five year land supply calculation with the latest year's monitoring data. However, the final figures are still being prepared but it is understood that these will confirm that the Council is still unable to demonstrate a five year land supply as required.

As such the current application is required to be determined in accordance with paragraph 14 of the NPPF, applying the presumption in favour of sustainable development. The presumption has two tests: one, is the development sustainable when assessed against the framework as a whole, and two if there is any harm, does it significantly and demonstrably outweigh the benefits. The appeal inspector noted the presumption in favour of sustainable development was at the heart of the NPPF, it being comprised of three dimensions to this: economic, social and environmental. These roles being mutually dependent and should be jointly sought to achieve sustainable development. He also concluded that a proposal on a greenfield site was in itself not necessarily harmful, and that elsewhere the Council was reliant on the release of greenfield sites to meet its housing need. The application site has some existing tin sheds along its eastern boundary, which has been in situ for many years. This part of the site would meet the definition of 'previously developed land' within the NPPF. The remainder has not been built upon and should be considered greenfield. The NPPF encourages the use of previously developed land (brownfield land), provided that it is not of high environmental value. The site is a mixture of both brownfield and greenfield, the NPPF giving support to the former, and in the context of Mid Devon, the appeal inspector to the latter.

To assess the locational sustainability of the site the NPPF has the following to say:

Paragraph 17: Planning should 'actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable.'

Paragraph 30: '...local planning authorities should therefore support a pattern of development which, where reasonable to do so, facilitates the use of sustainable modes of transport.'

Paragraph 34: 'Plans and decisions should ensure developments that generate significant movement are located where the need to travel will be minimised and the use of sustainable modes can be maximised. However this needs to take account of policies set out elsewhere in this Framework, particularly in rural areas.'

The Core Strategy Policy COR17 permits minor development proposals within a list of approximately 20 villages. These villages were selected on the basis that they have sufficient services and facilities, along

with public transport provision. Due to the provision of these requirements, these villages have been determined to be sustainable locations for limited development. The minimum requirement for inclusion within the policy was that the settlement must have a school, shop, pub and daily transport service. Bickleigh has a primary school, two pubs and a daily transport service. It does not have a shop however, though the Bickleigh Mill tourist attraction does contain craft shops and a restaurant (though no shop that would perform the function of a village shop). It therefore has three of the four criteria required for inclusion on the list of villages where limited development is acceptable in principle. The settlement also has a village hall.

The proposal is centrally located within the village and all services/facilities are within walking distance - though to access the two pubs requires crossing the historic bridge over the River Exe which has no footways. The village is located just off the A396, the main road between Tiverton & Exeter/Crediton, which is served by regular bus services on weekdays and Saturdays at a 30 minute frequency. Whilst employment opportunities will be very limited within the village itself, the provision of a regular bus service towards the principal employment centres of Tiverton and Exeter means that the option of using public transport is a realistic one. It is acknowledged that many people will still choose to make use of private motor vehicles, but this is not untypical for Mid Devon in general being a very rural district. The proposal is not considered to be incompatible with paragraph 30 of the NPPF - 'a pattern of development which facilitates the use of sustainable modes of transport.' The scale of the proposal would also not give rise to a significant increase in movement, paragraph 34 of the NPPF also noting that account needs to be given to policies regarding rural areas, particularly given that public transport provision is considerably less extensive than in urban areas.

Reason for refusal 1 in the 2015 scheme was founded on the basis of the scheme's location outside settlement limits. Given the appeal decision, this refusal reason can no longer be attributed the same weight. Instead, in assessing the locational sustainability of the proposal, the provision of a range of services and facilities combined with a frequent public transport service weigh positively in the scheme's favour, and it is not considered that a reason for refusal on the same grounds as previously can be substantiated.

2. Heritage impact

Core Strategy Policy COR2 'Local Distinctiveness' requires development to sustain the distinctive quality, character and diversity of Mid Devon's environmental assets. Local Plan Part 3 (Development Management Policies) Policy DM27 'development affecting heritage assets' requires proposals to consider their effect on setting, significance, character and local distinctiveness of heritage assets and weigh harm against benefits.

The proposal site lies within a sensitive location, being within the Bickleigh Conservation Area, and surrounded by a number of listed buildings. In closest proximity to the proposed dwellings are situated the grade II* Church of St. Mary (to the north east); the grade II School House and adjoining Church Green Cottage (to the east) and The Rectory and The Old School (to the north/north-east respectively). Other listed buildings are located within the settlement whilst Bickleigh Castle (grade I and a conservation area) is approximately 1.5 km to the south west on the on other side of the River Exe.

Impact on the historic environment formed the second of the two reasons for refusal in the 2015 scheme. The refusal concluded the following:

The site is designated as a heritage asset on the local list

The site's development would affect the setting of the church and several nearby listed buildings and affect important views into the area.

It has not been demonstrated that the effect on these heritage assets would be acceptable

In regard to the first bullet point, in November 2015 the inclusion of the site on the heritage assets register was reconsidered. The site was reassessed against the Historic England criteria used to determine whether sites should be included or excluded on the local list. These assessment criteria included age, rarity, aesthetic value, group value, evidential value, historic association, archaeological interest, designated landscapes, landmark status and social and communal value. As a result of the reassessment and with the information available at that point it was concluded that the plot was 'an interesting, substantially undeveloped plot in the centre of the conservation area with very important setting and view implications for

the church and Bickleigh Castle (as well as other listed buildings) but that there is insufficient evidence that it was a 'green'. Therefore it does not meet the criteria for local heritage asset status and should be removed from the register.' Following the removal of the site from the register, this element of the previous refusal reason would fall away.

The issues set out in the two bullet points from the previous reason for refusal require consideration. Policy DM27 'development affecting heritage assets' requires development proposals likely to affect heritage assets and their settings to consider their significance, character, setting and local distinctiveness, and the opportunities to enhance them. The application is accompanied by a range of information about the historic environment and an assessment of the impact of the scheme. This primarily includes a report on the results of Archaeological Trial Trenching and a Heritage Statement. The latter examines the legislative, national and local policy requirements associated with the assessment of the impact of development upon heritage assets, an identification of known heritage, assessment of documentary sources, appraisal of the site and environs, and consideration of impact.

Having taken account of the assessment criteria and relevant considerations the Heritage Statement makes a number of conclusions. Firstly that following archaeological evaluation evidence indicates that the site has not been developed historically, but has been used for a range of activities. It states that the absence of structural remains neither proves nor disproves that the manor has always been located at Bickleigh Castle. It states no further archaeological work is required to support a planning decision. The report notes that the proposal would not have any direct impact on significant heritage features on site, the only structure on site being of no architectural or historical interest and that there would be a beneficial impact associated with its removal. It continues that the conservation area and listed buildings are all of heritage significance and considers the indirect impact. Screening between the building listed buildings and the site through, landform, built form and vegetation limit impact, whilst the use of traditional architectural features reflective of those present within the conservation area, including thatch and white walls, and a typical style, scale and massing, are sympathetic and help preserve the character and appearance of the area. It finally concludes that the nationally significant buildings and conservation at Bickleigh Castle would not be adversely affected by proposals as the sympathetic design of buildings and surrounding areas will reinforce the rural landscape.

Historic England, Mid Devon District Council's Conservation Officer and Devon County Council Historic Environment Service have all responded to the consultation on this application. Historic England commented that they did not consider development of the site to be unacceptable and noted that the application was now accompanied by further evidence intended to address issues of history and significance of the site. Historic England however has raised queries about the intended layout, particularly as the alternative options within the applicant's Design and Access Statement would provide more of a street frontage, creating an active relationship with the public routes. Historic England asked for cross-sectional drawings of the proposed scheme to show the relationship to the church, other adjacent buildings and vegetation. North-South and East-West sectional drawings have subsequently been provided by the applicant. Historic England has commented on these drawings, noting that they clarify the relationship between the new dwellings and the church, the proposed development being set well below the platform on which the church is constructed and of diminutive size in comparison to it. They conclude this suggests that there would be no visual competition between the new houses and the church, but requests the local planning authority satisfy itself as to the height of the church tower depicted, given it is based on estimates only.

Mid Devon's Conservation Officer has also commented twice on the application. The response notes that whilst the scheme is clearly contentious, as is clear from local opposition, that it must be assessed on the basis of policies, national guidance and evidence. Neither, is it acknowledged, does conservation area status prohibit change - but development should preserve or enhance the conservation area. Views to and from the site, church and listed building have been assessed and it is noted that there will be change, but the development pattern and setting of listed buildings will not be substantially harmed. With regard to the cross-sectional drawings provided, the Conservation Officer has considered the potential for error in the drawings, but considers that in relation to other properties and topography considers them to be accurate - the heights are in proportion to other buildings and do not appear excessive. Overall, the advice of the conservation officer is that the development will not enhance the character of Bickleigh, but despite the less than substantial harm (arising from some loss of hedge bank and associated impact on views) the overall character and significance will be preserved. The less than substantial harm will need to be weighed

against public benefit (a requirement of national and local policy). The response concludes that a heritage related reason for refusal would not be sustainable at appeal. It should also be noted that the Conservation Officer took note of the draft Bickleigh Conservation Area Appraisal, produced and supplied by Bickleigh Local History Group. However the document had not been subject to any public consultation, and though interesting, cannot be given any weight in considering the current planning proposal.

In relation to the historic value and previous uses of the site, Bickleigh Local History Group have commissioned and submitted a report by SW Archaeology. This desk-based assessment indicates that the site has not been developed in modern times and that any proposed development is likely to disturb archaeological deposits or remains of varying levels of significance. The report notes that there is evidence to suggest the original manor of Bickleigh was located close to the site - possibly including the site itself - as indicated by the presence of potential earthworks from aerial photographs. A further report written and submitted by medieval historian Duncan Probert of Kings College London discusses the possibility that Bickleigh was the meeting place of the West Saxon royal council at a hunting lodge in 904. The report concludes that the most viable location for the hunting lodge was at Bickleigh (as opposed to another Bickleigh near Plymouth). It is stated that evidence suggests the original focal point for the manor lay near the centre of the village, most probably within areas marked as the churchyard, parsonage, Church Green and adjacent orchard, and that the hunting lodge would be likely in same area. A possible enclosure demarking the same area may add weight to the identification.

Devon County Council's Archaeologist has visited the site and commented three times on the application. The comments address the notion of a putative enclosure suggested to be centred on the parish church of St Mary. It is the view of the county archaeologist that many of the suggested boundaries of the enclosure are of significantly later creation. The field boundary that forms the north-western arc of the enclosure at the Rectory has been created through raising ground to create a level driveway at the front of the building and is likely to date from the 18th/19th century. The north-eastern boundary defines an area of historic quarrying that was later planted up as an orchard. The presence of a downward slope across the land is considered sufficient to cast doubt upon the likely presence of a manorial enclosure centred on the parish church. As a result of the site inspection and previous archaeological evaluation of the site, it is not considered that there is sufficient evidence for the assertion that the proposed development lies within a medieval enclosure centred on the parish church. Previous investigation has yielded 12th and 13th century pottery, but did not indicate any settlement or other intensive use of the site from an earlier period. However, groundworks could expose further artefactual material and an archaeological condition requiring a programme of works and written investigation is proposed.

The consultation responses from the three historic environment specialists do not raise an objection to the principle of development. At most it is noted that less than substantial harm will arise, and such harm is limited to the impact on views associated arising from some loss of hedgerow when seen to and from the church. At the least, suitable mitigation is proposed via condition to make the development acceptable to the consultees. Policy DM27 requires less than substantial harm to be weighed against the public benefits of the scheme. The scale of the harm is very limited in its scope, whilst there are benefits in relation to increasing housing supply associated with permitting the scheme. Accordingly it is considered that the issues set out in the previous refusal on heritage grounds have been addressed, and pursuing a refusal on those grounds is considered to be without merit and unable to be substantiated at appeal. The proposal is considered compliant with Policies COR2 and DM27.

3. Design

Though this is an outline application, the only reserved matter is landscaping - layout, appearance and scale are to be determined at this stage. The proposal is for 4.no dwellings, these being within two pairs of semi-detached dwellings. The dwellings principal elevation faces to the west, with gardens to the rear facing east. Local Plan Part 3 Policy DM2 'high quality design' states that new development must be of a high quality taking account of factors such as privacy and amenity amongst others. Policy DM14 'design of housing' sets more specific requirements in terms of dwelling requirements including size, private amenity space, daylight, sunlight and privacy amongst others.

A number of alternative layouts were considered and these are discussed within the applicant's Design and Access Statement. Alternatives included separating the dwellings, locating some in the west and eastern

parts of the site. northern boundary creating an active frontage. However, the layout proposed is a simple one, allowing the greatest amount of land to be made available for the public open space in the western part of the site. Having more properties along the northern boundary would also require the loss of more hedgerow than is currently proposed. It is also noted that Bickleigh has no particular development pattern and that the proposal for a gable end of the northern property to be side on to the road is not uncommon within the village.

The size of the proposed dwellings is in compliance with the national space standards set by Government and is therefore in accordance with Policy DM15. The size of the gardens proposed is considered modest, but not unacceptable. Nearest neighbours are those living at the bungalow Court View, to the south, and School House/ Church Green Cottage to the east. The separation distance to Court View from the nearest proposed dwelling is approximately 14 metres. However, no windows are proposed in the second storey south elevation, giving rise to no concerns about the impact on privacy. The second storey windows on the east elevation will look towards School House/Church Green Cottage however the presence of intervening boundary walls and structures, a levels difference of approximately 4 metres and a separation distance at its shortest in excess of 20 metres are sufficient to conclude that any impact on the privacy and amenity of the occupants of the proposed or neighbouring dwellings is acceptable.

Given the historic context of the location the style of dwellings and materials proposed is significant to their suitability. It is proposed that the dwellings be of a traditional design, incorporating lime-based rendered walls and thatched roofs. No details of the design or style of windows and doors have been provided, so it is proposed that a condition be attached requiring these be approved via condition. Similarly appropriate style and materials for the thatch would also be conditioned to ensure these reflect the local vernacular. Subject to the imposition of the conditions, the proposal is considered to be compliant with Local Plan Part 3 policies DM2, DM14 and DM15.

4. Highways, transport and parking

Access to the site is proposed off the road which runs along the northern boundary. The road is a single carriageway rural lane where observed vehicle speeds are generally fairly low. An existing access is in place which is proposed to be widened in order to accommodate the appropriate size of visibility splay. Some loss of hedgerow would occur as a result (as has been highlighted above in regard to the impact on the character and appearance of the conservation area). Though there are no footways on the local road network, Devon County Council's Highways Officer raises no objection to the development. It is proposed that the size and provision of the visibility splay be controlled via condition. Other standard highways conditions are also proposed in terms of the provision of the site access and prevention of surface water drainage on to the highway. To ensure construction traffic does not have an unacceptable impact on the local road network and amenity of local residents a condition requiring submission of a Construction Management Plan will be imposed. Eight parking spaces are proposed for the use of residents which meets the minimum requirements set in local policy DM8.

5. Biodiversity

The ecological report which accompanied the application noted that there were no protected habitats on site and that habitat loss would be minimal should the proposals go ahead. The report highlighted a good breeding population of slow worms and low population of grass snakes. Both are protected under the Wildlife and Countryside Act 1981 and therefore it is proposed that a submission of a Reptile Mitigation Strategy be submitted as a pre-commencement condition. This strategy would demonstrate how the injuring of killing of such species would be avoided during the construction phases of the development. The survey indicated a low level of bat activity and cautions against the introduction of unacceptable light levels. However, no external lighting is proposed, the only lighting being that which would be associated with the provision of the dwellings. The report highlights the value of hedgerows as foraging locations for bats and that these be retained where possible. Though some hedgerow would be lost due to the provision of the visibility splay, the retention of all other hedgerows is proposed to be controlled via condition. It is also likely that the hedges, trees and bushes around the perimeter will be used by nesting birds. The report recommends that the timing of works will need to avoid the nesting bird season. Again, this is proposed to be controlled via condition.

There is a small group of young oak and birch trees in the south east of the site that are in close proximity with the most southerly proposed dwelling. The applicant's arboriculturist and the Council's tree officer have confirmed that there would be conflict between the trees and the houses, which would only get worse given the young age of the trees. The consultant notes that the species are mediocre in terms of their quality although they do offer some visual amenity to the wider landscape, forming a distinct group aerodynamically. The consultant confirms that the trees need to be removed and replaced with new tree planting which would benefit the scheme and make a positive long-term contribution to the area. One tree would need to be removed prior to construction, the remainder prior to the occupation of the dwellings. The detailed proposals for the replacement planting would be determined as part of the landscaping reserved matters. The loss of the trees would be a negative impact of the proposal. However, the tree officer has stated that the trees are not of sufficient value to warrant being covered by a Tree Protection Order. As such, the applicant could separately apply to have them removed (consent required given they are in a conservation area) but the Council would be very unlikely to withhold permission. As such it is considered that there can be no basis for refusal on the grounds of tree loss, and the provision of alternative planting would act to mitigate the loss.

6. Public open space and drainage

The proposals include provision of on-site public open space which would be provided in the west part of the plot. This would be informal space, laid to lawn, with no play equipment or similar currently proposed. The size of the public open space is in excess of the minimum requirements set down in Policy AL/IN/3 and therefore no financial contributions are sought towards provision. The future management and maintenance arrangements of this space are yet to be determined. It is proposed that a scheme for its management and maintenance be conditioned which would need to be discharged prior to any commencement taking place. Potentially this could be discharged at the reserved matters stage when the remaining matter 'landscape' is assessed. This later submission would allow the applicant time to agree the management arrangements with third parties who may express an interest in taking on the site. If this cannot be agreed, the applicant would need to establish a management company to take on this role. Overall, the provision of the public open space is considered to be a beneficial outcome for the scheme, weighing positively in its favour.

It has been noted by representors that the site is allocated as Local Green Space (LGS). The LGS definition was introduced by the NPPF and sets criteria against which to determine whether a site can be allocated for this purpose. Policy DM24 of the Council's emerging plan, the Local Plan Review 2013-33, proposes that the site 'Church Green, Bickleigh' (i.e. the application site) be designated as a LGS. The Local Plan Review does not represent adopted policy yet, and therefore the weight which can be accorded to it is dependent on its stage of preparation, and the extent of unresolved objections. The plan is relatively far progressed in its preparation, but has not been submitted to the Secretary of State to begin the examination process - this limits the weight which can be attached. There are also unresolved objections to the designation of the site which could only be resolved through the examination process. Accordingly I can attribute no weight to the proposed designation. Should the site gain permission, the possibility of the public open space provided being designated as LGS would be a possibility - though this would be subject to the discretion of the Inspector overseeing the examination of the Local Plan Review.

Policy COR11 'flooding' requires proposals to taking account of climate change and flooding, whilst policy DM2 requires appropriate drainage including the provision of Sustainable Urban Drainage systems (SUDs). The application proposes that the foul sewer connect to the mains. Surface water will be controlled via a managed system, going first to attenuation tanks which would retain the water, particularly at times of significant rainfall, before discharging flows back to the main sewer. A drainage strategy setting out the detailed workings would be a pre-commencement requirement to be controlled via condition.

7. Planning balance and recommendation

There are a number of factors which need to be weighed in the balance before making a recommendation. The proposal is outside a defined settlement and is in a location where residential development is strictly controlled. Such was the basis for one of the two previous reasons for refusal. However, given the Council cannot demonstrate a five year supply of land for housing the settlement limit cannot be given the same weight as it once could. There are a range of services and facilities within the village, generally more so than would be the case with other settlements located in the area designated 'countryside' under Policy

COR18. A frequent bus service is available offering a viable alternative to the use of the private car. The Council also has to consider whether the adverse effects of the scheme significantly and demonstrably outweigh the harm. In the refused scheme the adverse effects were the impact on the historic buildings nearby and the character and appearance of the countryside. However, the heritage consultees no longer have an objection in principle and at most indicate that only less than substantial harm would arise associated with the loss of hedgerow and its associated impact on short views to and from the church. No other harm in relation to biodiversity, impact on privacy or amenity or transport has been identified which has not been addressed by good design or controlled via condition. It is not considered that the harm could be substantiated at an appeal as a reason for refusal. The scheme would provide benefits in the form of additional housing which will make a contribution towards district supply as well as public open space for the benefit of the village. Accordingly it is considered that the harm does not significantly and demonstrably outweigh the benefits and conditional planning permission is recommended.

CONDITIONS

1. No development shall begin until detailed drawings of the landscaping of the site (hereinafter called the Reserved Matters) have been submitted to and approved in writing by the Local Planning Authority.
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 begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of approval of the last of the Reserved Matters which have been approved, whichever is the later.
4. As part of the landscaping reserved matters, detailed drawings shall show which existing trees and hedges are to be retained and the location of mitigation planting on the site as part of the development.
5. No development shall begin until a detailed surface water drainage scheme for the site (including Sustainable Urban Drainage systems including attenuation measures) has been submitted to and approved in writing by the local planning authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.
6. No development shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Planning Authority. The development shall be carried out at all times in strict accordance with the approved scheme, or such other details as may be subsequently agreed in writing by the District Planning Authority.
7. No development shall begin until details of the materials to be used for all the external surfaces of the buildings have been submitted to and approved in writing by the Local Planning Authority. Such approved materials shall be so used and retained.
8. No thatching works shall begin until details of the style of thatching and the materials to be used to cover the roofs of the development have been submitted to, and approved in writing by the Local Planning Authority. The thatching shall be carried out in accordance with these approved details.
9. No development shall begin until a scheme for the management and maintenance of the public open space shown on the submitted plans has been submitted to, and been approved in writing by the local planning authority. The approved scheme shall be implemented on completion of development and the open space area shall thereafter be permanently retained, managed and maintained in accordance with the approved scheme.
10. No development shall begin until a Reptile Mitigation Strategy, as recommended within the Blue Sky Ecology Report, dated October 2014, has been prepared by a qualified ecologist and submitted to, and approved in writing by the local planning authority. The development shall be carried out in

accordance with the recommendations within the Reptile Mitigation Strategy.

11. If any works to hedges, trees or the existing buildings on site are programmed to take place in the main bird nesting season of March to August inclusive, a survey should be undertaken by a qualified ecologist and submitted to the Local Planning Authority. If evidence of nesting birds is found then works shall not commence until the ecologist has verified that the chicks have fledged.
12. Prior to commencement of any part of the site the Planning Authority shall have received and approved a Construction Management Plan (CMP) including:
 - (a) the timetable of the works;
 - (b) daily hours of construction;
 - (c) any road closure;
 - (d) hours during which delivery and construction traffic will travel to and from the site, with such vehicular movements being restricted to between 8:00am and 6pm Mondays to Fridays inc.; 9.00am to 1.00pm Saturdays, and no such vehicular movements taking place on Sundays and Bank/Public Holidays unless agreed by the planning Authority in advance;
 - (e) the number and sizes of vehicles visiting the site in connection with the development and the frequency of their visits;
 - (f) the compound/location where all building materials, finished or unfinished products, parts, crates, packing materials and waste will be stored during the demolition and construction phases;
 - (g) areas on-site where delivery vehicles and construction traffic will load or unload building materials, finished or unfinished products, parts, crates, packing materials and waste with confirmation that no construction traffic or delivery vehicles will park on the County highway for loading or unloading purposes, unless prior written agreement has been given by the Local Planning Authority;
 - (h) hours during which no construction traffic will be present at the site;
 - (i) the means of enclosure of the site during construction works; and
 - (j) details of proposals to promote car sharing amongst construction staff in order to limit construction staff vehicles parking off-site
 - (k) details of wheel washing facilities and obligations
 - (l) The proposed route of all construction traffic exceeding 7.5 tonnes.
 - (m) Details of the amount and location of construction worker parking.
 - (n) Photographic evidence of the condition of adjacent public highway prior to commencement of any work.
13. Visibility splays shall be provided, laid out and maintained for that purpose at the site access where the visibility splays provide intervisibility between any points on the X and Y axes at a height of 0.60 metres above the adjacent) carriageway/drive level and the distance back from the nearer edge of the carriageway of the public highway (identified as X) shall be 2.40 metres and the visibility distances along the nearer edge of the carriageway of the public highway (identified as Y) shall be 25.00 metres in both directions.
14. The site access road shall be hardened, surfaced, drained and maintained thereafter to the satisfaction of the Local Planning Authority for a distance of not less than 6.00 metres back from its junction with the public highway.
15. In accordance with details that shall previously have been submitted to, and approved by, the Local Planning Authority, provision shall be made within the site for the disposal of surface water so that none drains on to any County Highway.

REASONS FOR CONDITIONS

1. The application was submitted as an outline application in accordance with the provisions of Articles 4 and 5 of The Town and Country Planning (Development Management) Order 2010.
2. For the avoidance of doubt and in the interests of proper planning.
3. In accordance with the provisions of Section 92(2) of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

4. In the interest of visual amenity of the area in accordance with policy DM2 of the Local Plan Part 3 (Development Management Policies).
5. To ensure appropriate measures are taken to manage surface water in accordance with policies DM2 of the Local Plan Part 3 (Development Management Policies) (2013) and Mid Devon Core Strategy (Local Plan Part 1) Policy COR11.
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 the use of materials appropriate to the development in order to safeguard the character and appearance of the conservation area in accordance with Mid Devon Core Strategy Policy COR2 and Local Plan Part 3 (Development Management Policies) Policy DM27.
8. To ensure the use of materials/detailing appropriate to the character and appearance of the building in accordance with Mid Devon Core Strategy Policy COR2 and Local Plan Part 3 (Development Management Policies) Policy DM27.
9. To safeguard the character and amenities of the area in accordance with Policy DM2 of the Local Plan Part 3 (Development Management Policies).
10. To ensure protected species are not killed or injured during the construction phase of development.
11. To ensure that the wild birds are not killed or injured during the construction phase of development in accordance the requirements of the Wildlife and Countryside Act 1981.
12. To minimise the impact of the development on the highway network.
13. To provide adequate visibility from and of emerging vehicles.
14. To prevent mud and other debris being carried onto the public highway.
15. In the interest of public safety and to prevent damage to the highway.

REASON FOR APPROVAL OF PERMISSION/GRANT OF CONSENT

The proposed development for the erection of four dwellings and provision of public open space is not policy compliant with the development plan given the location of the development outside a defined settlement limit. However, the absence of a five year supply of deliverable housing land is a material consideration which requires the proposal to be approved unless the harm significantly and demonstrably outweighs the benefits, or that other policies within the National Planning Policy Framework indicate otherwise. The range of services and facilities at Bickleigh, is greater than within most locations which are outside defined settlement limits, whilst the provision of a frequent bus service along the adjoining main road from Tiverton to Exeter/Crediton means there is a viable alternative for residents seeking access to employment opportunities and other facilities in those locations. The proposal is also considered acceptable in relation to its impact on the historic environment with at most only less than substantial harm having been identified associated with the impact on short views to and from the church linked to the removal of some hedgerow. The harm arising is not considered to significantly and demonstrably outweigh the benefits associated with the provision of additional housing. The proposed development is considered to have an acceptable impact in terms of highways, design, appearance and ecology and to comply with Mid Devon Core Strategy (Local Plan Part 1) Policy COR2, COR3 and COR11, Allocations and Infrastructure Development Plan Document (2010) Policy AL/IN/3 and Local Plan Part 3: Development Management Policies (2013) policies DM2, DM8, DM14, DM15 and DM27.

Application No. 16/00549/FULL

Plans List No. 3

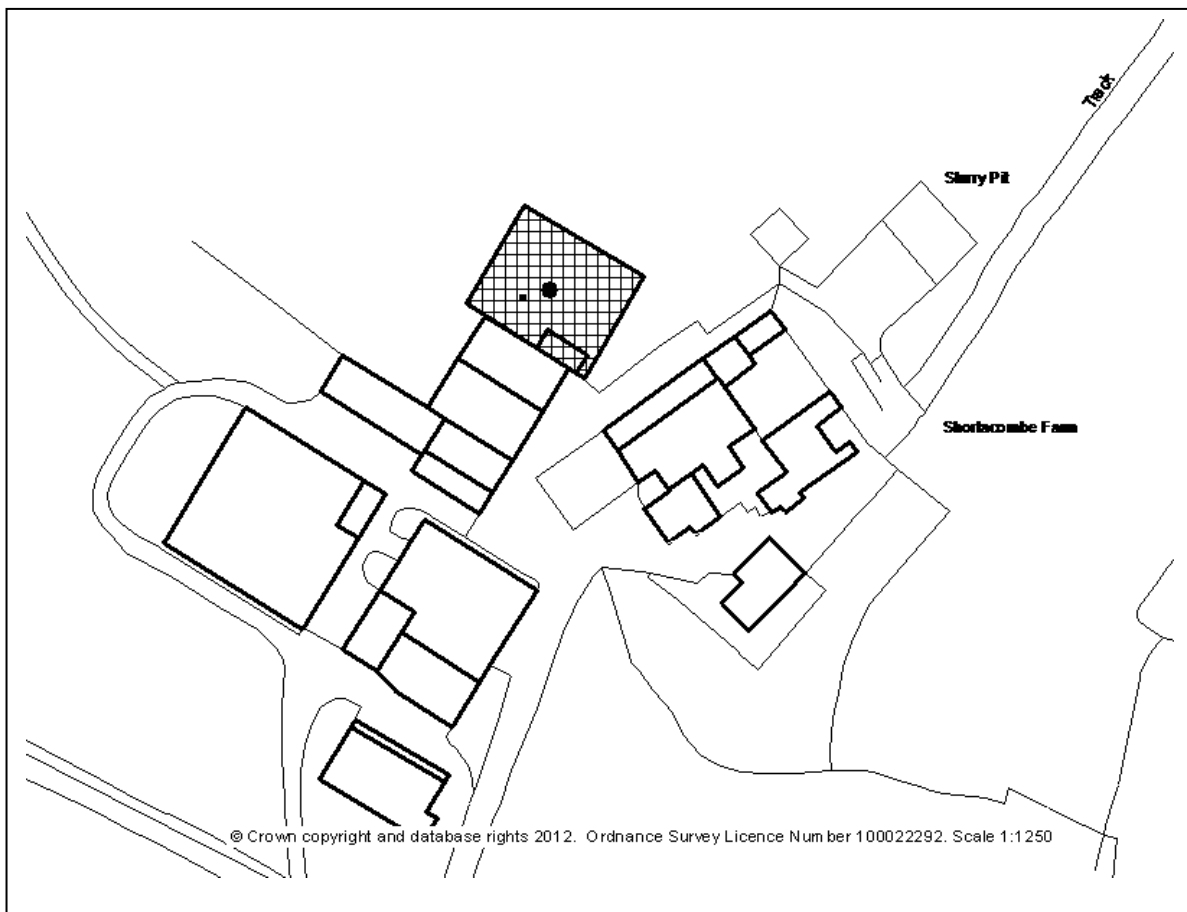
Grid Ref: 277081 : 96434

Applicant: Mr D Coren

Location: Land and Buildings at NGR
277081 96434 (Shortacombe
Farm) Yeoford Devon

Proposal: Erection of an agricultural
livestock building (832 sq.m.)

Date Valid: 27th June 2016



Application No. 16/00549/FULL

RECOMMENDATION

Grant permission subject to conditions.

PROPOSED DEVELOPMENT

Erection of an agricultural livestock building (832 sq.m.) at Shortacombe Farm, Yeoford. The site is an existing farm holding situated within the countryside to the south west of Yeoford.

APPLICANT'S SUPPORTING INFORMATION

Manure Management Plan (Agrogate Professional Farming Services)

PLANNING HISTORY

98/01314/FULL Erection of an agricultural building - PERMIT – October 1998

99/02805/FULL Erection of an agricultural building (revised scheme) - PERMIT – August 1999

01/01182/FULL Erection of general purpose agricultural building - PERMIT – August 2001

06/01928/PNAG Prior notification for the erection of an agricultural shed for hay storage – No Objection – September 2006

11/01090/PNAG Prior Notification for the erection of an extension to an agricultural building – No Objection – August 2011

DEVELOPMENT PLAN POLICIES

Mid Devon Core Strategy (Local Plan 1)

COR2 - Local Distinctiveness

COR18 - Countryside

Mid Devon Local Plan Part 3 (Development Management Policies)

DM1 - Presumption in favour of sustainable development

DM2 - High quality design

DM22 - Agricultural development

CONSULTATIONS

CREDITON TOWN COUNCIL - 21st July 2016 - Application noted.

SANDFORD PARISH COUNCIL - 11th July 2016 - NO COMMENT (Neighbouring Parish)

HITTISLEIGH PARISH COUNCIL - 19th July 2016 - No objection

CHERITON BISHOP PARISH COUNCIL - 12th July 2016 - No objections

HIGHWAY AUTHORITY - 4th July 2016 -

No specific comment other than standing advice applies, none relevant in this case as existing access is considered acceptable (see point d).

CREDITON HAMLETS PARISH COUNCIL - 11th July 2016 - Crediton Hamlets Parish Council Planning Committee support this application for a necessary agricultural building within an existing farm yard setting

ENVIRONMENTAL HEALTH - 7th July 2016 -

Contaminated land - No objection to this proposal

Air quality - No objection to this proposal

Environmental permitting - No objection to this proposal

Drainage - No objection to this proposal

Noise and other nuisances - No objection to this proposal

Housing standards - N/A

Licensing - No comments

Food hygiene - N/A

Private water supplies - N/A

Health and safety - No objections to this proposal enforced by HSE.

NEWTON ST CYRES PARISH COUNCIL - 11th July 2016 - No comment

REPRESENTATIONS

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

MATERIAL CONSIDERATIONS AND OBSERVATIONS

COR18 establishes the principle of development within the open countryside and permits the provision of agricultural buildings. More specifically DM22 specifies that agricultural development will be permitted where:

- a) The development is reasonably necessary to support the farming activity on that farm or in the immediate agricultural community;
- b) The development is sensitively located to limit any adverse effects on the living conditions of local residents and is well-designed, respecting the character and appearance of the area; and
- c) The development will not have an unacceptable adverse impact on the environment.
- d) The development will not have an unacceptable traffic impact on the local road network.

An assessment of the application scheme against these criteria is set out below:

- a) The current farm holding extends to 222.5 hectares across two family run farms- Shortacombe and Mill Farm. The milking herd is currently around 100 cows which are milked twice a day, additionally approximately 70 followers. The milking activities are carried out at Shortacombe with dry cows kept at Mill Farm. The farming activity also includes a beef rearing enterprise and some arable crops. The applicant has recently installed a new milking parlour which will enable them to expand the dairy herd to approximately 120 cows. The existing cubicle building is no longer fit for purpose due to both its size and deteriorating condition which has consistently raised issues during farm inspections. The proposed building will provide cubicle housing for the dairy herd adjacent to the new milking parlour and therefore will improve the efficiency of the dairy process on the holding. Overall it is considered that the building is reasonably necessary to support the expansion and modernisation of this established farm holding.
- b) The building is located at the edge of the farm yard, adjacent to an existing agricultural building that has been adapted to provide the new milking parlour and collection yard for the holding. The farm is located on steeply sloping ground and the site has already been provided by a significant amount of infill. The design of the building utilises modern agricultural materials and is considered to be designed appropriately to function efficiently for livestock housing. The building will be visible from outside of the site, particularly views from the north. However it will be viewed in association with the existing farm yard development and furthermore, will be situated at a lower level than the buildings to the south. Therefore, whilst it is a large building, it is considered that it will sit comfortably within the landscape and would not cause harm to the character and appearance of the area.

The nearest dwelling, apart from the farmhouse, is situated approximately 320m to the south east of the site. It is considered that the proposed building is located sufficient distance from neighbouring properties such that it would not have an adverse impact on the living conditions of any local residents.

- c) The foul water and slurry resulting from the development will be directed to the existing dirty water catchment pit and slurry lagoon. The slurry will be spread on the arable land when required, as conditions allow. The surface water from the building will be collected in tanks and reused on the farm. The development is not considered to result in an adverse impact on the environment.
- d) The site access is through the farm yard from the existing farm lane access which joins the highway to the south. There are no changes proposed to the existing farm access. Given the relatively modest expansion of the milking herd, it is not anticipated that the development will result in a significant increase in traffic on the local highway network.

CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice.

REASONS FOR CONDITIONS

1. In accordance with the provisions of Section 51 of the Planning and Compulsory Purchase Act 2004.
2. For the avoidance of doubt and in the interests of proper planning.

REASON FOR APPROVAL OF PERMISSION/GRANT OF CONSENT

The application for the erection of an agricultural livestock building (832sqm) is considered to be supportable in policy terms. It is considered that the building is reasonably necessary to support the modernisation and expansion of the activity on the farm holding and will provide a purpose built, functional building to house the dairy herd. The overall design and siting of the building is considered to be acceptable. Whilst the building is large, it is situated adjacent to the existing farm buildings and it is not considered that it would have a significant impact on the visual amenity of the area. There are no concerns regarding the impact on the environment or the local highway network. On this basis, the proposal is considered to comply with the following policies: COR2 and COR18 of the Mid Devon Core Strategy (Local Plan Part 1), DM1, DM2 and DM22 of the Local Plan part 3 (Development Management Policies) and Government guidance in the National Planning Policy Framework.

Application No. 16/00564/FULL

Plans List No. 4

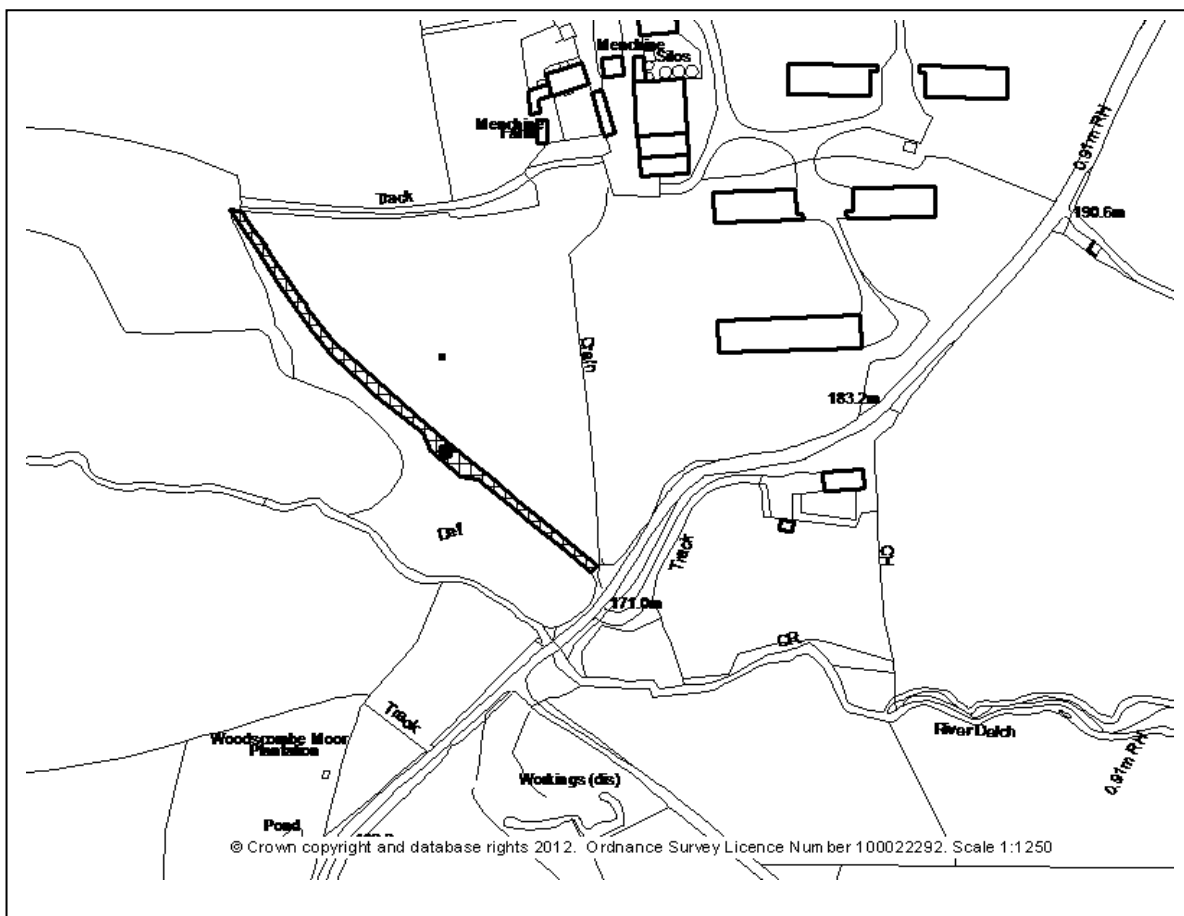
Grid Ref: 283280 : 113411

Applicant: Mr S Cole

Location: Land at NGR 283282
113369 (Menchine Farm)
Nomansland Devon

Proposal: Retention of an agricultural
access track

Date Valid: 12th May 2016



Application No. 16/00564/FULL

RECOMMENDATION

Grant permission subject to conditions.

PROPOSED DEVELOPMENT

The application has been submitted retrospectively and is for the retention of an agricultural access track at Menchine Farm just south of Nomansland Cross. The track utilises an existing farm gate opening and follows a route of approximately 200 metres across agricultural fields terminating at the Menchine Farm AD complex. The width of the route is approximately 4.0 metres across the majority of its course, incorporating a passing bay, and formed from rolled stone and concrete. The route is shown on a block plan to support the application

The applicant has submitted the following statements to support the application (email received 24/05):

There was no hedge removal required at the lower end of the track next to the road. The road access was already in existence by means of a single gate and some wooden rails. The gate and rails were removed as most of the wood was rotten and required replacing. Double field gates will be installed soon to secure the entrance once more. Access to the north of the track required a small amount of bushes to be removed as the existing gap in the hedge was small and overgrown. The gap has been widened by approximately 4 meters. It is intended to plant a number of trees on the area of land between the track and the river Dalch near the road.

The intention is that the track is used by tractors towing either trailers or tankers. There is a block of land to the south of Menchine that will be supplying AD feedstock and animal feed to the farm as well as receiving digestate from the AD plant. In the past tractors have used the field to access that land at harvest time when ground conditions allow. The size and weight of vehicles will be the same as would otherwise use the main entrance onto the B3137 to access land to the south of Menchine via Nomansland.

As mentioned above, it is intended that agricultural vehicles use the track to service the AD plant and supply animal feed to Menchine. This will divert these vehicles away from the village and so reduce traffic through the village.

Email 12/07:

You may find it helpful to know what traffic has used the track to date. So far there has been 810 tonnes of digestate exported to Upcott on 46 loads and 66 tonnes of grass imported on 5 loads. This means that there have been 102 movements up and down the track since February that would have had to travel to and from the farm via Nomansland.

Further plans were submitted (received on 31 May 2016) confirming the extent of visibility splays which are proposed as part of the application scheme, following consideration of comments submitted by the Highway Authority (refer to comments below).

APPLICANT'S SUPPORTING INFORMATION

None.

PLANNING HISTORY

10/00956/DCC County Matter application for erection of anaerobic digestion plant, ancillary equipment and associated works - REFUSAL OF PLANNING PERMISSION 15TH DECEMBER 2010 and subsequent appeal dismissed - This application was refused for 3 reasons, including the increase in traffic and resultant additional hazards that will be caused for existing highway users

12/01659/MFUL: Erection of an Anaerobic Digestion Facility (APPEAL FOR NON DETERMINATION) - ALLOWED JULY 2013

14/00575/MFUL: Erection of an Anaerobic Digestion Facility (Revised Scheme) - this application was considered by committee on the 30th June and approved subject to 10 conditions.

14/01915/FUL: This application was submitted to vary the terms of condition 10 of planning approval 14/00575/MFUL to allow for the installation of an Anaerobic Digestion facility with 1,000Kw installed capacity. This application was subject to an appeal against non-determination, which was dismissed, and the Inspectors conclusions are set out below:

13. The appellant's main argument is that the use of larger load sizes would enable the larger output to be achieved without significant additional traffic movements over and above those considered in the 2013 appeal, notwithstanding that no consideration is given to the local amenity impact of using larger load sizes. Regardless, the appropriate comparison, in my view is with the current operation, the true impact of which will not be evident until the required crop rotations enable the plant feedstock to be sourced from within the 6km radius zone. The 6km zone is also proposed to be used for the larger requirement, and the efficiency requirements required to keep the additional feedstock requirements to the projected 68.67% are no more than theoretical at this stage. Given that the larger load sizes are already in use, the addition feedstock requirement, and resultant digestate spreading, is likely to result in a proportionate increase in traffic movements on the rural lanes throughout the 6km zone. Failure to achieve the projected plant efficiency could result in up to a doubling of traffic by comparison with the current operation. Either scenario has the potential to significantly adversely affect local residential amenity in terms of noise and disturbance.

14. From the evidence before me I am not satisfied that I could reasonably conclude that no such harm would arise. As such, varying the condition as proposed would conflict with policies DM1, DM2, DM5 and DM7 of the Mid-Devon Local Plan Part 3 Development Management Policies (LP). LP Policy DM5 promotes renewable and low carbon energy, and the promotion of renewable energy projects and tackling the effects of climate change are key Government objectives. However, as Local Plan Policy DM5 makes clear, adverse impacts must be satisfactorily addressed. In my view the appeal proposal does not adequately address the potential for harm to local amenity.

14/01887/FULL: Erection of extension to existing office premises (The cricket barn) and provision of 10 additional parking spaces was permitted on 6th January 2014.

15/00573/FULL: Erection of new building for processing digestate fibre in association with existing AD plant. This application remains pending consideration (following consideration at meetings on the 29.07.2015 and 11.05.2106) and will be reported back to the Planning Committee at their meeting in September.

DEVELOPMENT PLAN POLICIES

Mid Devon Core Strategy (Local Plan 1)

COR2 - Local Distinctiveness

COR18 - Countryside

Mid Devon Local Plan Part 3 (Development Management Policies)

DM1 - Presumption in favour of sustainable development

DM2 - High quality design

CONSULTATIONS

MORCHARD BISHOP PARISH COUNCIL - 7th June 2016

No comment.

CRUWYS MORCHARD PARISH COUNCIL - 13th June 2016

Cruwys Morchard Parish Council at it's meeting on 9th June recommends refusal of the above application for the following reasons:

1. It cannot be termed "Retention of an agricultural track at Menchine Farm" as prior to February 2016 it was previously a field gateway with land accessed infrequently. Pictures show exactly what the field looked like prior to this track being put in. It was a field with a hedge between it and the river Dalch and was silaged last year. It should therefore be a request for Retrospective Permission for an act already carried out.
2. A track of this magnitude would be completely unnecessary to service the small amount of land at Menchine unless it is to be used to service the Anaerobic Digester.
3. No details have been given relating to whether this is the case except that the Highway Authority have commented ' traffic generated by the AD plant would normally need to travel to the plant through the village and an access from the south will give the benefit of reduced movements through the residential elements of the village to the benefit of the residents'. It is clear from this statement that the Highway Authority have no idea of the way that traffic operates in this village as the road from Nomansland crossroads down the hill to the access track and onto Puddington and Black Dog or vice versa is rarely used by the huge tractors and trailers as there are 8 houses, four on either side of this piece of road with no off road parking and hence insufficient width to accommodate such large vehicles between the parked cars. Therefore absolutely no gain to the village of Nomansland.
4. Full details should be requested by the LPA about the exact use of this track. It is essential that all movements are monitored to and from it with the same kind of detail that was requested by the Appeal Inspector to ensure that there is no increase in the energy production breaching the 500kw allowed within the approved Planning Permission.
5. There is concern that the fodder beet which appears to have been tilled to the south of Menchine is one of the reasons why the track has been built. There is a requirement from the Environment Authority for this to be washed prior to delivery to the AD plant. This is currently done at Cleave Farm. Without going through Nomansland how and where will this be carried out. We would request liaison with the Environment Authority regarding relevant permitting.
6. Should this application be approved we would request that enforceable conditions are applied regarding the strict monitoring and recording of all movements to and from this entrance to Menchine.

NORTH DEVON DISTRICT COUNCIL - 7th June 2016 - No observations

TEMPLETON PARISH COUNCIL - 1st June 2016

Templeton Parish Council does not have any objection to this access as it will help alleviate the amount of traffic having to access Menchine Farm main entrance and thus reducing the existing nuisance, noise and increased dangers to residents/pedestrians within Nomansland itself.

However, we do wish to emphasise, that this new second access should not be allowed to accommodate surreptitious increased energy production via non monitored less visible feedstock imports, or indeed for over laden vehicles in excess of the combined legal weight limit. This specific point has extreme relevance to our parish and surrounding districts.

We, therefore, respectfully remind officers of previous requests that have been made for modern technology data/traffic movement collection to be conditioned in specific regard to any new applications at Menchine Farm Nomansland which may facilitate or cause traffic movements trips to increase or energy production to breach the 500 kw maximum in accordance with the approved Planning Application.

NATURAL ENGLAND - 25th May 2016

No comments.

ENVIRONMENTAL HEALTH - 7th June 2016 - Contaminated Land - N/A

Air Quality - N/A

Environmental Permitting - N/A

Drainage - No objections

Noise & other nuisances - No objections

Housing Standards - N/A

Licensing - No comments

Food Hygiene - N/A

Private Water Supplies - N/A

Health and Safety - No objections

HIGHWAY AUTHORITY - 25th May 2016

The Highway Authority has visited the site and given the traffic generated by the AD plant which would normally need to travel to the plant via the village. The access to the south will give benefit in reduced movements through the residential elements of the village to the benefit of the residents.

The access will require improvements to the visibility to the south and the Highway Authority would recommend a condition for such given the likely increase in traffic from it onto the public highway in addition the access will need to be hard surfaced in a bound material,. No loose stones or chipping for 6.0m back from the edge of the carriageway, Tarmac is advised.

The new surface should be formed with the carriageway so that the public highway drains to the existing gully at the southern point of the gateway.

Recommendation:

THE HEAD OF PLANNING, TRANSPORTATION AND ENVIRONMENT, ON BEHALF OF DEVON COUNTY COUNCIL, AS LOCAL HIGHWAY AUTHORITY, MAY WISH TO RECOMMEND CONDITIONS ON ANY GRANT OF PLANNING PERMISSION

1. Visibility splays shall be provided, laid out and maintained for that purpose at the site access where the visibility splays provide intervisibility between any points on the X and Y axes at a height of 1.0 metres above the adjacent carriageway level and the distance back from the nearer edge of the carriageway of the public highway (identified as X) shall be 2.40 metres and the visibility distances along the nearer edge of the carriageway of the public highway (identified as Y) shall be 25.0 metres in a Northern direction and 33.0 metres in the other direction.

REASON: To provide adequate visibility from and of emerging vehicles.

2. The site access road shall be hardened, surfaced, drained and maintained thereafter to the satisfaction of the Local Planning Authority for a distance of not less than 6.0 metres back from its junction with the public highway

REASON: To prevent mud and other debris being carried onto the public highway

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

REASON: In the interest of public safety and to prevent damage to the highway

REPRESENTATIONS

Five representations have been submitted, raising the following concerns/objections to the application scheme, and other comments regards the operation of the Menchine Farm/Edgeworthy Farm complexes which are set out separately.

Clarification that the farm gate access was rarely used, and that this application is retrospective in nature The access track has been designed to carry larger agricultural type vehicles.

It is not considered that the access track is needed.

Traffic movements to Menchine Farm and Edgworthy Farm through Nomansland remain high, and no evidence has been submitted to substantiate the claim that the application scheme will reduce trip levels passing through Nomansland.

Residents are concerned that the use of this track will facilitate the delivery of additional feedstock (unmonitored) to the Menchine AD plant so that it can operate above the 500 Kw limit established by LPA ref: 14/00575/MFUL.

In addition some local residents remain concerned at the amount of Fodder Beet stored at Cleave Farm and Silage at Edgworthy, and are concerned about it being moved to Menchine Farm.

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The main determining factors in this application are:

- 1. Policy**
- 2. Transportation impacts**
- 3. Visual amenity / Ecological impacts**
- 4. Impact on amenity of residents**

1. Policy

The site is in the open countryside. Local (COR18) and national planning policies make clear that new development in the countryside should be strictly controlled. However, there is scope for essential agricultural development and development which supports the rural economy.

The applicant has confirmed that the track will be used to manage vehicular trips arriving and departing from the Menchine Farm complex, as an alternative to the principal access off of the B3137. As stated above since the access track has been laid, it has been used to manage the movement of feedstock to the AD plant and the movement of digestate away from AD plant, totalling 102 journeys. Policy DM22 and DM20 would provide policy support for the proposed scheme if the relevant criteria can be satisfied.

DM20:

- a) The development is reasonably necessary to support farming activity on that farm or in the immediate agricultural community;
- b) The development is sensitively located to limit any adverse effects on the living conditions of local residents and is well-designed, respecting the character and appearance of the area; and
- c) The development will not have an unacceptable adverse impact on the environment.
- d) The development will not have an unacceptable traffic impact on the local road network be permitted given the contribution agriculture makes to the character of the countryside and the necessity for such development to be located in rural locations.

DM22: In countryside locations, planning permission will be granted for new build employment development or expansion of existing businesses, provided that the development is of an appropriate use and scale for its location. Proposals must demonstrate that:

- a) The development would not lead to an unacceptable impact on the local road network;
- b) There would not be an unacceptable adverse impact to the character and appearance of the countryside; and
- c) There are insufficient suitable sites or premises in the immediate area to meet the needs of the proposal.

The first part of the policy assessment relates to concluding whether or not there is a need for the scheme of development as it has been undertaken. Vehicles arriving and departing the site have historically accessed it from the B3137 with the farm gate access providing access for farm vehicles and used very infrequently. Although it can be concluded that there is not an overriding need to retain the access track in situ, it does serve a purpose in terms of keeping some traffic off the B3042 and passing through Nomansland.

As set out above some local residents are suspicious that the newly formed entrance will enable the AD

plant to operate over and above the terms established by the relevant planning permission. Clearly irrespective of whether permission is granted to retain this track and formalisation of the access, the terms of condition 7 (as set out below) remaining binding.

7. The operator of the development hereby approved shall keep records to include the number of vehicles which enter or leave the site associated with the operation hereby approved. These records shall include the size, type and load details, as well as the vehicles point of origin or destination. These records shall be made available to the local planning authority on request.

The applicant has submitted records for the first and second quarters of 2016 in response to the ongoing monitoring required by Condition 7, and this submission regime will continue. If members resolve to approve this retrospective application, these records shall be required to distinguish between vehicles arriving and departing from the access from B3042 and from the newly created southern access, in order to ensure these records remain robust in terms of providing a check that the AD plant is being operated in accordance with the approved details (i.e. 500 Kw output).

2. Highway safety

The Highway Authority have made comments regards the inadequacy of the visibility available for drivers of vehicles leaving the site. The applicant has submitted a section plan which overlays the required visibility splay requirement and which proves that it is achievable in terms of the applicants land ownership and could be provided following some remedial works to current vegetation / hedgerow on the highway verge, replacing the old fence with a traditional Devon bank.

On the basis of achieving the visibility splays the Highway Authority raises no concerns in terms of highway safety impacts of the access continued and ongoing use, and therefore there are no clearly defined objections to the application in terms of applying policy COR9, DM20(d) and DM22(a).

3. Visual Amenity / Ecological Impacts

The length of hedgerow included within the scope of the visibility splay is approximately 33.0 metres in a southerly direction and 25.0 metres in a northerly direction back to Nomansland. Further details of the new highway boundary will be secured as a conditional requirement should members approve this application. The applicant has stated these new planting and landscaping works could be completed in the next planting season starting in October 2016.

The access track itself is visually contained within the site, with no significant change in land levels and whilst the track is visually identifiable across the field pattern, it remains rural in character and similar to many other farms tracks across the district.

In summary, subject to details to be provided by condition in terms of the landscaping works to accommodate the visibility splays, overall the retention of the newly formed access and track are not considered to result in an unacceptable visual impact, and therefore there are no clearly defined objections to the application in terms of applying policy COR9, DM20 (b/c), DM22 (b) and DM2 of the Local Plan part 3 (Development Management Policies) and COR2 of the Mid Devon Core Strategy (Local Plan Part 1).

Given the overall scope of the alteration to the hedgerow particularly in terms of the overall length of the hedgerow and its current condition, it is considered unlikely that the proposal will have a significant impact on the habitat potential at the site. Notwithstanding this the applicant will be advised of their duty under the Habitats and Species regulations by way of an informative note. The applicant will be reminded of the requirements of the Wildlife Act in terms of carrying out these works.

4. Residential Amenity Impacts

Whilst some local residents remain concerned about the ongoing level of traffic passing through Nomansland associated with the operation of the AD plant (as referred above), the newly formed access and route should not directly result in any increase the level of traffic on the network, but just allowing for a reassignment of some traffic to other part of the network.

In summary therefore there are no clearly defined objections to the application in terms of applying policy, DM22(b) of the Local Plan part 3 (Development Management Policies)

Conclusion

Whilst local stakeholders continue to raise concerns regarding further development at Menchine Farm, for the reasons given above, the proposals for which retrospective planning permission is sought is considered to comply with the relevant policies of the adopted Development Plan, and therefore approval is recommended subject to the conditions as set out.

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. Within 2 months of the date on this decision notice the visibility splays as shown on the visibility splay plan hereby approved shall be completed in accordance with the details set out on that plan. Within 5 months of the date on this decision notice a schedule of new planting and landscaping to the boundary of the site with the newly formed visibility splays shall be submitted to and approved in writing by the local planning authority. The approved details shall be implemented by 3rd December 2016 and maintained as such thereafter.
4. Within 3 months of the date of this decision the site access road shall be hardened, surfaced, drained and maintained thereafter to the satisfaction of the Local Planning Authority for a distance of not less than 6.0 metres back from its junction with the public highway.
5. In accordance with details that shall previously have been submitted to, and approved by the Local Planning Authority, provision shall be made within the site for the disposal of surface water so that none drains on to any County Highway. These details shall be submitted to and approved in writing by the Local Planning Authority, and implemented in accordance with the approved details, within 3 months of the date of this decision.
6. As part of the completion of the records to satisfy condition 7 pursuant to planning permission ref: 14/00575/MFUL the number of vehicles which enter or leave the site via the access hereby approved shall be recorded separately from those vehicles which enter or leave the site via the access via the B3137. These records shall be made available to the local planning authority on request.

REASONS FOR CONDITIONS

1. In accordance with the provisions of Section 51 of the Planning and Compulsory Purchase Act 2004.
2. For the avoidance of doubt and in the interests of proper planning.
3. In the interest of retaining the character and appearance of the area in accordance with policy COR2 of the Mid Devon Core Strategy (Local Plan Part 1).
4. To prevent mud and other debris being carried onto the public highway.
5. In the interest of public safety and to prevent damage to the highway.
6. To ensure that the AD plant approved under LPA ref: 14/00575/MFUL continues to operate in accordance with the approved details which allow an energy output of 500Kw installed capacity.

INFORMATIVE NOTE

1. The applicant is reminded of his responsibilities under the Wildlife and Countryside Act 1981, the Conservation of Habitats and Species Regulations 2010, the Countryside and Rights of Way Act 2000, the Hedgerows Regulations 1997. An offence may be committed if protected species or habitats are impacted upon as a result of the proposed works.

REASON FOR APPROVAL OF PERMISSION/GRANT OF CONSENT

The application is for the retention of an agricultural access track at Menchine Farm just south of Nomansland Cross. The track utilises an existing farm gate opening and follows a route of approximately 200 metres across agricultural fields terminating at the Menchine Farm AD complex, and is considered to be supportable in planning policy terms. The scope of the proposals will include improved visibility at the junction with the public highway, which will require further remedial landscape works. Overall the visual impact of the proposals (the track and the access) is not considered to be detrimental to the visual amenities or character of the area, and with the improved visibility arrangements the Highway Authority are supportive of the highway safety concerns. The use of the track will be monitored as part of the overall controls regarding the ongoing operation of the AD complex in terms of vehicles arriving and departing. Overall the proposal is considered to be supportable in accordance with policies COR2 and COR18 of the Mid Devon Core Strategy (Local Plan Part 1), DM1, DM2, DM20 and DM22 of the Local Plan part 3 (Development Management Policies) and government guidance in the National Planning Policy Framework.

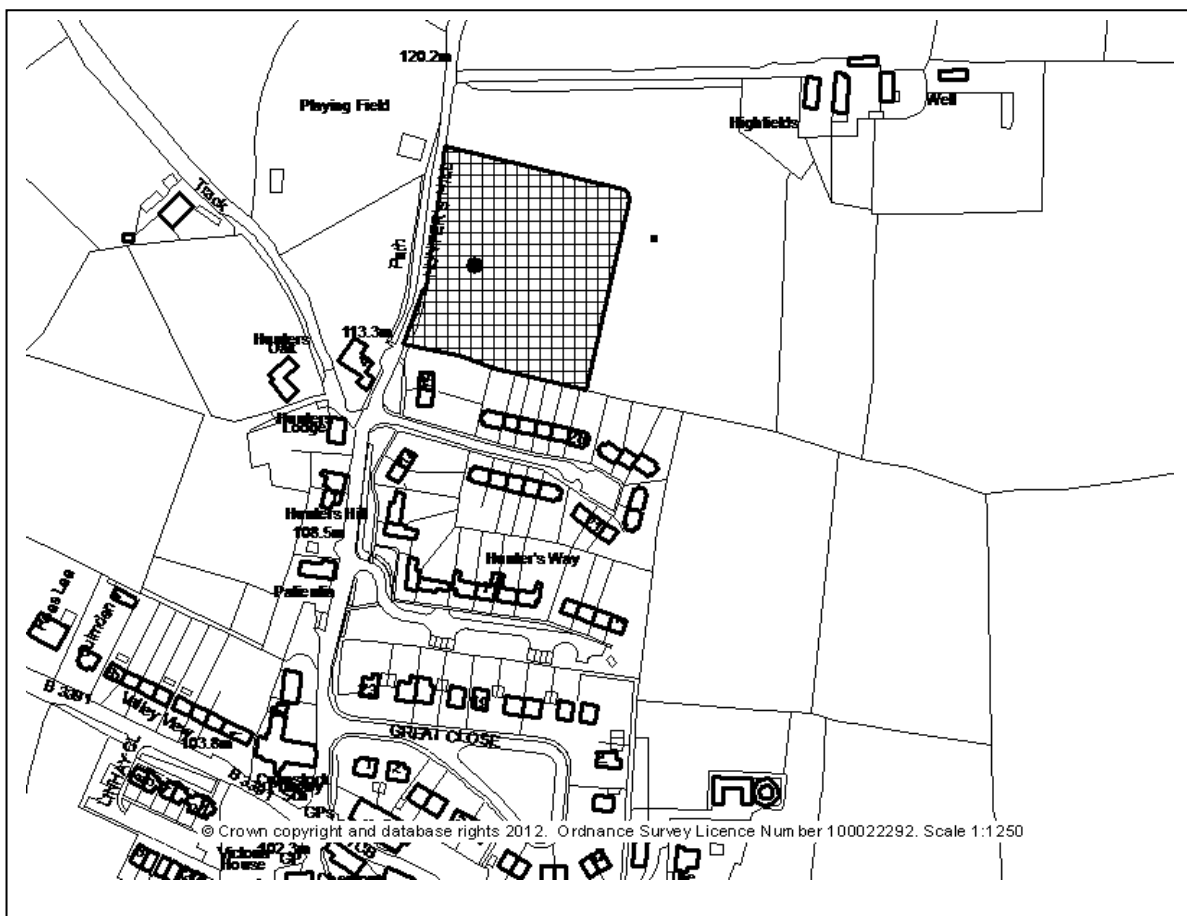
Grid Ref: 310280 : 114261

Applicant: Mr A Lehner

Location: Land at NGR 310280
114261 Hunters Hill
Culmstock Devon

Proposal: Outline for the erection
of 13 dwellings

Date Valid: 10th May 2016



Application No. 16/00693/MOUT

RECOMMENDATION

Grant subject to conditions and S106 in respect of:

1. Provision of 4 affordable dwellings (2 x 2 bed and 2 x 3 bed) on site;
2. A financial contribution of £15,665 towards Phase 2 of the improvements to Culmstock Playing Fields; and
3. A financial contribution of £41,744 towards additional secondary education infrastructure and secondary education transport costs

This is a major development and a departure from the policies in the local Plan

PROPOSED DEVELOPMENT

The application seeks outline permission for the erection of 13 dwellings (9 market and 4 affordable) on 0.76 hectares of agricultural and to the north of Hunter's Way, Culmstock. Access, scale and layout are to be determined under this application with appearance and landscaping being reserved to be determined at a later date under a reserved matter application.

The majority of the site is proposed to be allocated in the emerging Mid Devon Local Plan Review under Policy CL2 for 10 dwellings with 30% affordable housing. The policy text refers to the site area as being 0.4 hectares, whereas the policy map shows an area of 0.59 hectares. The allocation was "released" for development following a Cabinet decision on 7th August 2015 to bring forward several emerging local plan allocations from later in the plan period in order to increase housing land supply.

A slightly larger development is proposed to increase the viability of the site and to provide a better layout. The proposal includes an additional affordable dwelling over and above the 3 dwellings that would have been provided on the smaller allocation. The site is part of a sloping field that rises to the north and east from a point in the south west corner from which the access will be provided. There is no demarcation between the site and the remainder of the field and the allocation boundary is not evident on site.

The proposal is to provide 1 x 5 bed market house, 6 x 4 bed market houses, 2 x 3 bed market bungalows, 2 x 3 bed affordable houses and 2 x 2 bed affordable houses. Each dwelling is to have 2 parking spaces and private amenity space.

Access is to be via Hunter's Hill with the access road proposed to be adopted up to a turning head and 3 dwellings to be accessed via a private drive off the turning head. The boundary hedge to Hunter's Hill is to be retained. The application also provides for improved pedestrian facilities including a pedestrian crossing to the footpath serving the play area opposite.

A SUDS system will be provided for surface water drainage.

APPLICANT'S SUPPORTING INFORMATION

Planning statement incorporating design and access and affordable housing statements
Flood risk assessment and drainage strategy report
Infiltration SUDS report and additional information
Preliminary ecological appraisal
Tree schedule, impact assessment and arboricultural method statements
Results of archaeological trench evaluation

Further information - Landscape Assessment

PLANNING HISTORY

None.

DEVELOPMENT PLAN POLICIES

Mid Devon Core Strategy (Local Plan 1)

COR1 - Sustainable Communities
COR2 - Local Distinctiveness
COR3 - Meeting Housing Needs
COR9 - Access
COR11 - Flooding
COR17 - Villages
COR18 - Countryside

Mid Devon Allocations and Infrastructure Development Plan (Local Plan 2)

AL/DE/3 - Affordable Housing Site Target
AL/DE/5 - Inclusive Design and Layout
AL/IN/3 - Public Open Space
AL/IN/5 - Education Provision

Mid Devon Local Plan Part 3 (Development Management Policies)

DM1 - Presumption in favour of sustainable development
DM2 - High quality design
DM7 - Pollution
DM8 - Parking
DM29 - Protected landscapes
DM14 - Design of housing

CONSULTATIONS

CULMSTOCK PARISH COUNCIL - 16th June 2016

Thank you for granting an extension on the time for response regarding the above application.

The Parish Council has a number of concerns regarding the application, and wish to draw your attention to the comments below:

Has the sewage system and possible negative effects been considered?

Is there sufficient drainage to cope with rain and surface water run off?

Has the capacity of the school and pre-school been looked at? The proposal indicates that 13 households will only add 3.25 new primary school children. The Parish Council is unsure how this figure has been arrived at.

There are strong concerns regarding the impact increased traffic and speed. The suggested number of houses will inevitably bring a significant increase in the number of vehicles passing the school.

The development being considered is just outside of the village boundary on an allocated site. With reference to the recent Housing Needs Survey, which the district council are now in receipt of, this indicates a need for 8 affordable homes, and this proposal includes only 4 affordable homes.

The area planned is 30% greater than that within the MDDC Local Plan which indicates ten homes.

The Parish Council request that a Landscape and Visual Impact Statement is provided if permitted at Outline as part of any reserve matters.

HIGHWAY AUTHORITY - 24th May 2016

Observations:

The Highway Authority has visited the site and has no objections in principle. The development will be subject to APC and the applicant is encouraged to enter a section 38 highway agreement for the adoption of the works. The Highway Authority will seek the appropriate visibility splays as indicated on plan 15.47.01 which should be conditioned for its access location, visibility splays, road type, parking, layout and Turning facilities. The Highway Authority would also seek off site highway works for the provision of tactile crossings on the existing footway network and the provision of an improved pedestrian crossing to the footpath serving

the play area in order to relocate it away from road gullies or the redesign of the drainage to achieve the same improvement. The Local Planning Authority may wish to seek the comment/support of the local parish council to the footpath realignment without which the drainage design will be the only option.

Recommendation:

THE HEAD OF PLANNING, TRANSPORTATION AND ENVIRONMENT, ON BEHALF OF DEVON COUNTY COUNCIL, AS LOCAL HIGHWAY AUTHORITY, MAY WISH TO RECOMMEND CONDITIONS ON ANY GRANT OF PLANNING PERMISSION

1. The proposed estate road, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, road maintenance/vehicle overhang margins, embankments, visibility splays, accesses, car parking and street furniture shall be constructed and laid out in accordance with details to be approved by the Local Planning Authority in writing before their construction begins. For this purpose, plans and sections indicating, as appropriate, the design, layout, levels, gradients, materials and method of construction shall be submitted to the Local Planning Authority.

REASON: To ensure that adequate information is available for the proper consideration of the detailed proposals.

2. The occupation of any dwelling in an agreed phase of the development shall not take place until the following works have been carried out to the written satisfaction of the Local Planning Authority:

A) The cul-de-sac carriageway including the vehicle turning head within that phase shall have been laid out, kerbed, drained and constructed up to and including base course level, the ironwork set to base course level and the sewers, manholes and service crossings completed;

B) The cul-de-sac footways and footpaths which provide that dwelling with direct pedestrian routes to an existing highway maintainable at public expense have been constructed up to and including base course level;

C) The cul-de-sac visibility splays have been laid out to their final level;

D) The street lighting for the main road, cul-de-sac and footpaths has been erected and is operational;

E) The car parking and any other vehicular access facility required for the dwelling by this permission has/have been completed;

F) The verge and service margin and vehicle crossing on the road frontage of the dwelling have been completed with the highway boundary properly defined;

G) The street nameplates for the cul-de-sac have been provided and erected.

REASON: To ensure that adequate access and associated facilities are available for the traffic attracted to the site.

3. Within twelve months of the first occupation of the first dwelling in an agreed phase of the development, all roads, footways, footpaths, drainage, statutory undertakers' mains and apparatus, junction, access, retaining wall and visibility splay works shall be completed to the written satisfaction of the Local Planning Authority.

REASON: To ensure that the access arrangements are completed within a reasonable time in the interests of safety and the amenity of residents

4. No development shall take place until a surface water drainage scheme has been submitted to and approved in writing by the Local Planning Authority. Unless it is demonstrated that it is unfeasible to do so, the scheme shall use appropriate Sustainable Urban Drainage Systems. The drainage scheme shall be designed so that there is no increase in the rate of surface water runoff from the site resulting from the development and so that storm water flows are attenuated. The development shall be carried out in accordance with the approved scheme.

REASON: To protect water quality and minimise flood risk in accordance with Flood Management Act.

5. Off-Site Highway Works No occupation of the development shall take place on site until the off-site highway works for the installation of tactile paving at the road crossings between the site and Prescott road,

and improved crossing between the site and the footpath leading to the play area have been approved in writing by the Local Planning Authority and have been constructed and made available for use.

REASON: To minimise the impact of the development on the highway network in accordance with Paragraph 32 of NPPF

LEAD LOCAL FLOOD AUTHORITY - 14th July 2016

Following my previous correspondence (FRM/2016/638, dated 31st May 2016), the applicant has submitted additional information in respect of the surface water drainage aspects of the above application, for which I am grateful.

The applicant has submitted a Spring Design Response to Devon County Council Comments Document (Report Ref. -, Rev. -, dated -) which confirms the presence of a well-defined ditch along the site's southern boundary, which is acceptable.

Furthermore, an Infiltration SuDS GeoReport Document (Report Ref. GR_214060/1, Rev. -, dated 27th June 2016) has been submitted, which shows that the use of infiltration devices is likely to be feasible on this site, although this will need to be confirmed with percolation tests conducted in accordance with BRE Digest 365 Soakaway Design (2007). However, these tests can be secured by a pre-commencement planning condition at a later date.

At the detailed design stage, the applicant will also be required to conduct a thorough assessment to ensure that infiltrating water will not raise groundwater levels, be evacuated further downslope, or destabilise the slope itself. If this assessment demonstrates that infiltration is not a viable means of disposing of surface water on this site, an alternative drainage strategy should be proposed.

The applicant has also revised down the maximum off-site discharge rate from 5 l/s to 2 l/s, which is acceptable because it represents betterment over current greenfield conditions.

The Drainage Strategy Plan (Drawing No. 2185/500, Rev. A, dated April 2016), also shows that the proposed surface water drainage management system has now been designed to the 1 in 100 year (+40% allowance for climate change) rainfall event, which is acceptable.

The one remaining issue is that although the aforementioned plan now shows the incorporation of an attenuation pond, which will provide the required benefits to water 2 quality, public amenity and biodiversity, we have concerns about its location within what appears to be the curtilage of Plot 13.

LEAD LOCAL FLOOD AUTHORITY - 1st June 2016

At this stage, we object to this planning application because we do not believe it satisfactorily conforms to Policy DM2, specifically part (f), of the Mid Devon Local Plan (Part 3) (Development Management Policies), which requires developments to include sustainable drainage systems. The applicant will therefore be required to submit additional information, as outlined below, to demonstrate that all aspects of the surface water drainage management plan have been considered.

Section 2.5 of the Flood Risk Assessment and Drainage Strategy Report (Report Ref. FRA01, Rev. -, dated April 2016) states that there is an existing ditch which runs along the site's southern boundary, which then flows into a culverted watercourse. However, I am unable to confirm the presence of this ditch and culvert on our mapping system, so the applicant will be required to submit additional information to demonstrate that these are not isolated features which do not drain anywhere.

Section 2.11 of the aforementioned document states that infiltration testing will be carried out on the site at a later stage. However, at this outline stage, the applicant must complete a desktop study, using geological mapping tools, to determine whether it would be feasible in-principle to dispose of surface water by means of infiltration on this site, which is at the top of the drainage hierarchy.

The applicant should also note that where infiltration is not used, long-term storage must be provided to store the additional volume of runoff caused by the increase in impermeable area, which is in addition to the

attenuation storage required to address the greenfield runoff rates. Long-term storage should therefore be included within the surface water drainage management plan to ensure that each element is appropriately sized, and this should discharge at a rate not exceeding 2 litres/second/hectare.

Section 6.8 of the aforementioned document proposes an off-site discharge rate of 5 l/s. However, on small sites where the greenfield runoff rates are very low, we still wish to see discharge rates as close as possible to the greenfield performance, whilst also ensuring that a maintainable control structure can be provided. This is due to the fact that modern control structures can now facilitate discharge rates lower than 5 l/s, and as a result the minimum 5 l/s discharge rate recommendation is being phased out of national best-practice.

Sections 6.11, 6.12 and 6.13 of the aforementioned document propose a climate change uplift of 30% to the peak rainfall intensity used in the calculations for this site's surface water drainage management plan. However, in accordance with the new Flood Risk Assessments: Climate Change Allowances document (dated 19th February 2016), issued by central government, both the central and upper end allowances for climate change, as outlined in Table 2 of the aforementioned document, should be assessed to understand the range of impact from rainfall. The applicant should note that in this instance we would require the upper end allowance of 40% to be used.

Section 6.13 of the aforementioned document states that the attenuation storage above the 1 in 30 year rainfall event will be provided using attenuation storage tanks. However, these underground crates cannot be considered as a truly sustainable means of drainage because they do not provide the required water quality, public amenity and biodiversity benefits, which are some of the underpinning principles of SuDS. Consequently, above-ground attenuation features should be utilised unless the applicant can robustly demonstrate that they are not feasible; in almost all cases, above- and below-ground features can be used in combination where development area is limited.

I would also note that Appendix B of the aforementioned document does not present the entire Drainage Strategy Plan; it has been formatted incorrectly, meaning only part of the site is presented. The applicant will therefore be required to provide a copy of this document which shows the entire site.

The applicant will also be required to submit an outline operation and maintenance plan and timetable for the proposed surface water drainage management system to demonstrate that all components will remain fully operational throughout the lifetime of the development.

ENVIRONMENT AGENCY - 18th May 2016

Thank you for your email. However we should not have been consulted on this application.

The site lies within Flood Zone 1. We advise that we have no comment to make on this application and recommend that you consult ****, 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>

DEVON COUNTY EDUCATION - 12th May 2016

Regarding the above planning application, Devon County Council would need to request an education contribution to mitigate its impact.

The proposed 13 family-type dwellings will generate an additional 3.25 primary pupils and 1.95 secondary pupils.

There is currently capacity at the nearest primary for the number of pupils likely to be generated by the proposed development. Devon County Council will however seek a contribution towards additional education infrastructure at the local secondary school that serves the address of the proposed development.

The contribution sought is £35,569 (based on the current DfE extension rate of £18,241 per pupil) which will be used to provide education facilities for those living in the development.

We would also require a contribution towards secondary school transport costs due to the development being further than 2.25 miles from Uffculme school. The costs required are as follows: -

2.00 secondary pupils
£6.50 per day x 190 academic days x 5 years = £6,175

In addition to the contribution figures quoted above, the County Council would wish to recover legal costs incurred as a result of the preparation and completion of the Agreement. Legal costs are not expected to exceed £500.00 where the agreement relates solely to the education contribution. However, if the agreement involves other issues or if the matter becomes protracted, the legal costs are likely to be in excess of this sum.

HISTORIC ENVIRONMENT SERVICE - 19th May 2016

I refer to the above application and your recent consultation. Assessment of the Historic Environment Record (HER) and the details of the archaeological field evaluation of the site submitted by the applicant in support of this application do not suggest that the scale and situation of this development will have an impact upon any heritage assets with archaeological interest.

The Historic Environment Team therefore has no comments to make on this planning application.

DEVON, CORNWALL & DORSET POLICE - 16th May 2016

The Police have no concerns in relation to the design layout, in fact the site is ideal for Secure By Design Gold.

This would mean that the developer could follow the SBD process and know he was complying with building regulations (DocQ)

HOUSING ENABLING & BUSINESS SUPPORT MANAGER - 10th May 2016 - Housing Needs Report.

FORWARD PLANNING - 25th May 2016

Policy Context

Core Strategy (adopted 2007)

Policy COR3 'Meeting Housing Needs' requires the provision of approximately 6,800 dwellings across the plan period of 2006-2026.

Policy COR17 'Villages' - that within a defined list of villages development will be limited to minor proposals within defined settlement limits and to allocations for affordable housing.

Policy COR18 'Countryside' states that development outside the defined settlements will be strictly controlled, and that residential development will be limited to affordable housing to meet local needs, gypsy accommodation, essential accommodation for rural workers and ancillary accommodation.

Allocations and Infrastructure Development Plan Document (adopted 2010)

Policy AL/CL/2 'Culmstock, Hunters Hill' allocates a site of 0.4 hectares at Hunter's Hill, Culmstock for the provision of 10 affordable dwellings.

Local Plan Review 2013-2033 Proposed Submission (published February 2015)

Policy CL2 'Hunter's Hill, Culmstock' allocates a site of 0.4 hectares at Hunter's Hill, Culmstock for 10 dwellings with 30% affordable housing.

Principle of development

The proposal is for the erection of 13 dwellings on a greenfield site on the edge of the village of Culmstock. Under adopted Local Plan policy the site is allocated for 10 affordable dwellings with an area of 0.4 hectares which is adjacent to but outside the defined settlement limit. The site has not been developed for affordable dwellings since it was allocated in 2010.

The district has been preparing a new Local Plan which once adopted will supersede the three parts of the existing plan. The new plan, the Local Plan Review covers the period 2013-2033 and proposes additional housing allocations to address the need arising over the new plan period. The proposed submission version of the plan makes a proposed allocation at Hunters Hill for a mixture of market and affordable dwellings, being 10 in total. This change towards mixed market/affordable allocations in villages represents a different strategy from that set out in the existing adopted plan.

The National Planning Policy Framework states that decision-takers may give weight to the relevant policies in emerging plans according to the stage of preparation of the emerging plan (the more advanced the preparation the greater the weight) and the extent to which there are unresolved objections. The site (and others) were subject to a report to the Council's Cabinet on 7 August 2015 which recommended that due to the relatively advanced stage of the plan's preparation and the absence of any objections to the relevant allocation policy CL2, that planning applications should be requested on this site. Cabinet approved the report and subsequently the landowners were notified that development was now acceptable in principle, subject to the relevant planning considerations. The application proposal therefore has the support of emerging planning policy and is acceptable in principle.

The application proposal is however on a site area of 0.76 hectares and is larger than the area proposed to be allocated for development in the emerging local plan. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that decisions must be taken in accordance with the development plan unless material considerations indicate otherwise. The Forward Planning team has had extensive input into pre-application discussions with the applicant and case officer regarding the larger area proposal and the particular constraints of the site. The site's topography and its determining impact on layout, additional affordable housing provision to be made (above the policy requirement) and uncertainty over the viability of developing only the allocated 0.4 hectare parcel are all material to the application and weigh in favour of supporting the application as proposed.

Conclusion

The principle of developing the site for a mixture of market and affordable dwellings has the support of emerging planning policy. Extending beyond the extent of the allocation does not have policy support though there are material considerations to be taken into account which weigh in favour of approving the application. It is recommended that subject to usual planning considerations, the application should be approved.

NATURAL ENGLAND - 23rd May 2016

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development. The Wildlife and Countryside Act 1981 (as amended).

The Conservation of Habitats and Species Regulations 2010 (as amended) The National Park and Access to the Countryside Act 1949 Natural England's comments in relation to this application are provided in the following sections.

Statutory nature conservation sites - no objection.

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

Protected landscapes

The proposed development is for a site within or close to a nationally designated landscape namely Blackdown Hills AONB. Natural England advises that the planning authority uses national and local policies, together with local landscape expertise and information to determine the proposal. The policy and statutory framework to guide your decision and the role of local advice are explained below.

Your decision should be guided by paragraph 115 of the National Planning Policy Framework which gives the highest status of protection for the 'landscape and scenic beauty' of AONBs and National Parks. For

major development proposals paragraph 116 sets out criteria to determine whether the development should exceptionally be permitted within the designated landscape.

Alongside national policy you should also apply landscape policies set out in your development plan, or appropriate saved policies.

Natural England considers that this development is likely to affect landscape character in this locality. We advise you include a landscape and visual impact assessment. Such an assessment should be based on good practice guidelines such as those produced jointly by the Landscape Institute/Institute of Environmental Assessment 20021. Landscape character assessment (LCA) provides a sound basis for guiding, informing and understanding the ability of any location to accommodate change, and to make positive proposals for conserving, enhancing or regenerating character, as detailed proposals are developed.

We also advise that you consult the relevant AONB Partnership or Conservation Board. Their knowledge of the site and its wider landscape setting, together with the aims and objectives of the AONB's statutory management plan, will be a valuable contribution to the planning decision.

The statutory purpose of the AONB is to conserve and enhance the area's natural beauty. You should assess the application carefully as to whether the proposed development would have a significant impact on or harm that statutory purpose. Relevant to this is the duty on public bodies to 'have regard' for that statutory purpose in carrying out their functions (S85 of the Countryside and Rights of Way Act, 2000). The Planning Practice Guidance confirms that this duty also applies to proposals outside the designated area but impacting on its natural beauty.

Protected species

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

ENVIRONMENTAL HEALTH - 23rd May 2016

Contaminated Land - See attached below

Air Quality - no objection to these proposals

Environmental Permitting - N/A

Drainage - no objections to these proposals

Noise & other nuisances - no objections to these proposals

Housing Standards - no objections to these proposals

Licensing - Not applicable

Food Hygiene - N/A

Private Water Supplies - Not applicable

Health and Safety I have no objections to this proposal enforced by HSE

CONTAMINATED LAND

The following will be required:

1. Site Characterisation

An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

(i) a survey of the extent, scale and nature of contamination;

(ii) an assessment of the potential risks to:

human health,

property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,

adjoining land,

groundwaters and surface waters,

ecological systems,

archeological sites and ancient monuments;

(iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

2. Submission of Remediation Scheme

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

3. Implementation of Approved Remediation Scheme

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority.

The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

4. Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 1, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 2, which is subject to the approval in writing of the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 3.

BLACKDOWN HILLS AONB PARTNERSHIP - 31st May 2016

Although outside the Area of Outstanding Natural Beauty (AONB) Culmstock is a key gateway settlement and any development there should be assessed in relation to its impact on the AONB, particularly any development at Hunters Hill. As well as the site being seen as part of the setting of the AONB, it is possible that development here could well have an impact on the AONB in terms of public enjoyment of views and encroachment of development into those views. Several of the AONB's special qualities are associated with views;

1. Elevation and long panoramic views out create a sense of detachment.

2. Unspoilt panoramic views across flat topped plateau, straight undisturbed ridge tops and over hidden valleys.
3. Distinctive landform that contrast with surrounding lowlands.
4. Straight uninterrupted ridges provide a visual backdrop over a wide area.

These qualities are sensitive to development in the surrounding area changing the character of views, where even on a small scale villages can become increasingly visually prominent in views if the relationship with the surrounding landscape is not considered.

To help the local planning authority assess the impact on the AONB a Landscape and Visual Impact Assessment should be required. Details of the scheme will also be contributing factors with regard to impact, for example the layout - for determination at this stage, as well as design matters such as height and materials/colour of the dwellings, and landscaping. It is important that landscaping is not seen as a way to 'screen' the development, but should enhance the development by being appropriate for the local landscape character.

NATURAL ENGLAND - 13th July 2016 - Natural England has previously commented on this proposal and made comments to the authority in our letter dated 21 May 2016.

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

We also advise that you consult the relevant AONB Partnership or Conservation Board. Their knowledge of the site and its wider landscape setting, together with the aims and objectives of the AONB's statutory management plan, will be a valuable contribution to the planning decision.

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.

REPRESENTATIONS

3 objections summarised as follows:

1. Existing residents will lose their views
2. Houses should not be built on green belt land
3. The sewerage system is at maximum capacity and there needs to be an assessment on the capability of the system to take more sewage
4. Wildlife will be disturbed and may leave
5. Loss of privacy to existing gardens
6. Access onto the right of way which runs along the rear of houses in Hunter's Way would cause unease for existing residents
7. The local plan states 10 affordable houses not 13 mixed market dwellings
8. There will be a noticeable increase in traffic and noise
9. The culvert may be affected by planting additional trees (roots and leaves) and by additional surface water run-off from the development
10. Existing development will be overshadowed as the land is elevated above existing development - will the land be lowered to take this into account?

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The main issues in determining this application are:

1. Principle of development, including 5 year land supply and viability
2. Layout and scale
3. Access and parking, including off-site highway works
4. Landscape and effect on the setting of the AONB
5. Ecology and trees
6. Heritage
7. Drainage and land contamination
8. Effects on neighbouring residents
9. Section 106 and other financial considerations
10. Planning balance

1. Principle of development, including 5 year land supply and viability

The majority of the site is proposed to be allocated in the emerging Mid Devon Local Plan Review under policy CL2 for 10 dwellings with 30% affordable housing. The policy text refers to the site area as being 0.4 hectares, whereas the policy map shows an area of 0.59 hectares. The allocation was "released" for development following a Cabinet decision on 7th August 2015 to bring forward several emerging local plan allocations from later in the plan period in order to increase housing land supply.

Policy CL2 states:

A site of 0.4 hectares at Hunter's Hill, Culmstock is allocated for residential development subject to the following:

- a) 10 dwellings with 30% affordable housing which may be in the form of a financial contribution to provide the affordable dwellings in another location;
- b) landscaping and design which protect the setting of the Blackdown Hills AONB; and
- c) archaeological investigation and mitigation.

A slightly larger development is proposed to increase the viability of the site and to provide a better layout. The applicant entered into pre-application discussions and the proposal was discussed with Ward Members during this pre-application enquiry. Alternative layouts were provided to demonstrate layouts achievable on the allocation site (10 dwellings) and on the slightly larger site (13 dwellings). Whilst a suitable layout for 10 dwellings could be achieved on the allocation site, the layout that could be achieved on the slightly larger site enables a better mix of dwellings, including bungalows and an additional affordable dwelling, and a more attractive layout.

In addition, the applicant has provided viability figures which demonstrate that a scheme for 10 dwellings with 30% affordable housing and public open space and education contributions would not be viable, taking into account the land value that needs to be achieved in order for the site to be released for development (option agreement threshold). The viability spreadsheets prepared by the applicant are available in the file for Members to view before the meeting should they wish to do so.

Members will also be aware that Mid Devon has been found not to be able to demonstrate a 5 year housing land supply (Appeal Ref: APP/Y1138/W/15/3025120). The NPPF advises that where a five year land supply of deliverable housing sites cannot be demonstrated, policies on housing supply should not be considered up to date. This includes settlement limits identifying areas which are open countryside and those which are within defined settlements. Paragraph 14 of the NPPF states that where development plans policies are considered to be out of date, planning permission should be granted unless adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the NPPF as a whole. Housing applications need therefore to be considered in the context of sustainable development.

Policy COR3 of the Mid Devon Core Strategy (LP1) sets targets for the supply of housing in the District, including 30% affordable dwellings and an appropriate mix of dwelling sizes and types. Policy COR17

provides a definition of villages with defined settlement limits and sets out the type and scale of development that is acceptable within defined settlement limits and permitted on allocations outside settlement limits. Policy COR18 seeks to control development outside defined settlement limits to appropriate rural uses, excluding new market housing. These policies are directly relevant to the supply of housing in the District and are now considered to be out of date and carry less weight.

The NPPF contains a presumption in favour of sustainable development. It requires local authorities to "boost significantly the supply of housing" and to consider housing applications in the context of the presumption in favour of sustainable development. To promote development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. This is reflected in policy DM1 of the Local Plan 3 Development Management Policies which takes a positive approach to sustainable development, allowing development to be approved wherever possible.

Culmstock is considered to be a sustainable location for small scale new housing development with services and facilities within walking distance of the site.

The following paragraphs consider the impacts of the development and whether the increase in site size and housing numbers brings with it adverse impacts sufficient to outweigh the benefits.

2. Layout and scale

Layout and scale are to be determined through the current outline application. The proposal is for 13 dwellings with 10 dwellings set around a new estate road with turning head which will be adopted, and the remaining 3 dwellings arranged around a private drive leading from the turning head. Four of the dwellings will be semi-detached, and 9 detached, two of which will be bungalows. Each dwelling will have a private garden. Devon & Cornwall Police consider the layout achieves Secure by Design Gold.

Appearance and landscaping will be determined upon the submission of reserved matters, although the proposal is to retain the existing boundary hedge along the frontage with the road and plant a new boundary hedge around the perimeter of the site. The site is part of a larger field with no existing demarcation between the site and the remainder of the field; the allocation boundary is not evident on site.

The development will appear as an extension to the existing built form at the northern end of the village and your officers consider the scale of the proposed development to be proportionate including the part of the site that does not fall within draft allocation CL2 to the scale of the village and in accordance with policy DM2 of the Local Plan 3 Development Management Policies.

3. Access and parking, including off-site highway works

Access is to be determined through the current outline application. A new access is to be provided from Hunter's Hill in the vicinity of an existing field gate. The Highway Authority has no objections to the proposed access, which it is anticipated will be adopted up to the turning head. The Highway Authority requires appropriate visibility splays as indicated on the layout plan and requires details of the provision of the visibility splays, road type, parking and turning areas and surface water drainage to be conditioned. Subject to conditions, the access is considered to comply with policies COR9 of the Mid Devon Core Strategy (LP1) and DM2 of the Local Plan 3 Development Management Policies which require access to development to be safe and accessible.

The Highway Authority is also seeking off site highway works for the provision of tactile crossings on the existing footway network and the provision of an improved pedestrian crossing to the footpath serving the play area opposite the site in order to relocate it away from road gullies, or the redesign of the drainage to achieve the same improvement. It is recommended that these works are also conditioned.

The off-site highway works will improve accessibility to the playing fields opposite and create a safe crossing point from the development to the playing fields, in accordance with policies COR9 of the Mid Devon Core Strategy (LP1) and DM2 of the Local Plan 3 Development Management Policies.

Two parking spaces are proposed for each dwelling which is in accordance with policy DM8 of the Local

Plan 3 Development Management Policies.

4. Landscape and effect on the setting of the AONB

The Blackdown Hills AONB lies approximately 170 metres to the north of the site. Whilst the site itself is not within the AONB, development in this location has the potential to adversely affect its setting. Initially, no landscape and visual impact assessment was submitted with the application and the absence of this document was noted by the AONB, the Parish Council and Natural England and subsequently requested.

Policy COR2 of the Mid Devon Core Strategy (LP1) requires development to preserve and enhance the distinctive qualities of Mid Devon's landscape and to protect the setting of the Blackdown Hills AONB. Policy DM2 of the Local Plan Part 3 Development Management Policies requires development to demonstrate a clear understanding of the characteristics of the site, its wider context and surrounding area and make a positive contribution to local character. Policy DM29 of the Local Plan Part 3 Development Management Policies requires development proposal affecting the AONB or its setting to conserve the special landscape qualities of the AONB and biodiversity in the area. It states that major developments adjoining the AONB will only be permitted in exceptional cases.

The site lies within two landscape character areas: the south western part within the LCT3B "Lower rolling farmed and settled valley slopes" character area and the north eastern part within the LCT3A "Upper farmed and wooded valley slopes character area".

The lower rolling farmed and settled valley slopes character area is characterised by a tightly rolling, medium to small scale landform with well-managed hedgerows and irregular shaped medium to large enclosures of pasture. Roads are mostly winding with bends and frequently sunken. The landscape has high degrees of variation in terms of levels of visual containment. Within the valleys the level of enclosure is high and consequently there are very few open views within or out, due to the dense hedge network, extensive woodland and the incised form of the landscape. This is the case with the application site.

The upper farmed and wooded valley slopes character area is characterised by convex hills and rounded ridges with fertile smooth slopes running into small-scale views. Extensive tracts of medium-scale permanent pasture are grazed with some slopes and flatter hilltops cultivated for arable crops. Well-managed dense hedgerows bound regular medium to large pasture fields. Isolated farms, rural cottages and farm buildings tend to be visually prominent in the landscape with long views from one hilltop to another. The upper part of the site is within this character area but there are few long views in or out of the site.

The site is not highly visible within its landscape setting and for this reason the applicant has not submitted a full landscape and visual impact assessment but has provided a series of photographs of the site from various points within the landscape. The submitted document identifies remote viewpoints on higher land in the wider area from which it is possible to locate the area but the extent of the site is only apparent with visual aids and the site cannot be identified in photographs without the use of a telephoto lens. Your officers therefore consider the additional visual effects on the landscape from the larger development of 13 dwellings over and above those of the allocated site, are considered to be minimal.

Whilst the appearance of the dwellings and landscaping are reserved matters, based on the information supplied with the outline application, your officers consider that the development is capable of being introduced into the landscape without undue harm to the character of the landscape and the setting of the AONB, bearing in mind the low visibility of the site within the landscape and the benefits of the provision of market and affordable dwellings. The development is therefore considered to comply with policies COR2 of the Mid Devon Core Strategy (LP1) and DM2 and DM29 of the Local Plan 3 Development Management Policies in this respect.

The AONB and the Parish Council have been re-consulted on the basis of the additional information but no responses have yet been received. Members will be updated with further comments should they be received. Natural England has no further comments.

5. Ecology and trees

The hedgerow along the boundary is to be retained and protected during construction as detailed in the arboricultural report. The hedge is considered to be suitable dormouse habitat but as the hedge is to be retained, no further information is required on the absence or presence of dormice, merely precautionary measures to protect dormice from harm during construction. The small section of hedgerow to be removed to improve visibility is not considered to affect materially the contents of the ecology and tree reports.

The ecology report also recommends a sensitive lighting plan is conditioned to avoid disturbance to bats. Provided the development is carried out in accordance with the recommendations in the arboricultural and ecology report, the development is considered to comply with the requirements of policy DM2 of the Local Plan Part 3 Development Management Policies which requires a positive contribution to biodiversity assets and the NPPF which states that if significant harm resulting from a development cannot be avoided, planning permission should be refused. Subject to conditions to address these concerns, it is not considered that significant harm will result from the development.

Green infrastructure required by policy DM29 of the LP3 DMP will take the form of additional hedge planting connecting to existing hedges and landscape features.

6. Heritage

Archaeological investigations have taken place on the site, including trial trenching. The submitted archaeology report confirms that it is considered unlikely that any archaeological remains are present. Devon Historic Environment Service has no objections to the development.

The Culmstock Conservation Area lies approximately 175 metres to the south. There is little inter-visibility between the site and the Conservation Area and any views of the site from the Conservation Area would be seen in the context of the existing housing development at Hunter's Close. Your officers do not consider that the development would have a negative impact on the Conservation Area. In addition, the development is not considered to harm the settings of any listed buildings in the area.

The development is considered to accord with the provisions of policy DM27 of the Local Plan 3 Development Management Policies in respect of impacts on heritage assets.

7. Drainage and land contamination

COR11 of the Mid Devon Core Strategy (LP1) provides that development should not increase the risk of flooding elsewhere.

Surface water drainage is to be dealt with by way of permeable paving with attenuation pond and domestic soakaways which will outflow into an existing ditch/piped watercourse at the south western corner of the site, as will run-off from the estate road. The Lead Local Flood Authority initially raised concerns in respect of the submitted details, in particular in relation to the drainage ditch, infiltration testing/surface water storage, off-site discharge rates and climate change allowances. These concerns have been addressed by the applicant and a revised drainage plan submitted.

The Lead Local Flood Authority had one final concern with the position of the attenuation pond in the curtilage of plot 13. The applicant has confirmed that the attenuation pond will be situated outside the curtilage of any residential dwelling and this will be addressed in the reserved matters application. Subject to this, the proposal is considered to comply with the requirement in policy DM2 of the LP3 DMP to provide a SUDS scheme on site.

Concern has been raised by residents that the culvert may be affected by planting additional trees through the roots affecting the culvert and leaves falling into it, and by additional surface water run-off from the development. Landscaping is a reserved matter and the positioning of trees can be addressed at reserved matters stage. The applicant will also be required to address the ongoing maintenance of the surface water system through a SUDS condition. The drainage plan shows a decrease in surface water outfall from the site, the SUDS system reducing this to below greenfield run-off rates.

Concern has been raised by residents that the sewage system is at maximum capacity and there needs to be an assessment of the capability of the sewage system to take more sewage. South West Water has not objected to the proposed development and will be responsible for ensuring the sewage system is capable of serving the development.

The Parish Council has also expressed concerns in respect of foul and surface water drainage. As detailed above, it is considered that these concerns can be addressed, and the development would not increase the risk of flooding elsewhere, in accordance with policy COR11 of the Mid Devon Core Strategy (LP1).

Residential development is considered to be a high risk use as far as land contamination is concerned. Environmental Health has therefore recommended an initial land contamination investigation is carried out before development starts with any mitigation put in place as recommended by the investigation report. This is a standard requirement for major development sites. The development would need to comply with policy DM7 of the LP3 DMP that pollution should not have an unacceptable negative impact on health, the natural environment or general amenity.

8. Effects on neighbouring residents

Concern has been raised during the application process that:

existing residents will lose their views;
there will be a loss of privacy to existing gardens;
access onto the right of way which runs along the rear of houses in Hunter's Way would cause unease for existing residents;
existing development will be overshadowed as the land is elevated above existing development; and
there will be a noticeable increase in traffic and noise.

Planning cannot consider a loss of view, only an unacceptable loss of outlook, for example if an existing outlook from a dwelling was to be completely blocked by a new building. The closest distance between new and existing housing would be approximately 19 metres with the new access road between. Your officers consider that the outlook from the existing dwellings would remain acceptable.

Although the land is slightly elevated above the dwellings at Hunter's Way, this is not significant enough to cause overshadowing. The new dwellings would be to the north of Hunter's Way and would cast little shadow in the direction of the existing dwellings. The details of the dwellings and levels would be finalised at reserved matters stage.

Some of the gardens to the rear of dwellings in Hunter's Way are open, with others being screened by vegetation and trees. Whilst three of the proposed dwellings are shown to face towards existing gardens, it is considered that any potentially unacceptable loss of privacy for existing residents could be mitigated by the design of the dwellings and additional planting and/or boundary treatments. As stated above, there is a distance of approximately 19 metres between the rear elevation of the closest dwelling to the proposed development and the front elevations of the proposed dwellings closest to the access. Care will need to be taken in designing these dwellings to ensure that the relationships between existing and new dwellings, including window to window relationships, are acceptable.

There is no intention for the residents of the proposed development to have direct access onto land to the rear of the houses in Hunter's Way. No public right of way exists along this boundary.

There will inevitably be an increase in traffic through Culmstock with the development of 13 new dwellings. However, the Highway Authority considers this to be acceptable and it is not considered that this increase in traffic will have an unacceptable impact on existing residents. Similarly, it is not considered that an additional 13 domestic dwellings will increase noise levels in the area to an unacceptable level. The Environmental Health Team have no objections to the proposed development in terms of noise and other nuisances.

Subject to mitigation as described above, it is not considered that the proposed development would have an unacceptable impact on the privacy and amenities of existing residents. The development is considered to be in accordance with the provisions of policy DM2 of the LP3 DMP in this respect.

9. Section 106 and other financial considerations

Policy AL/DE/3 of the AIDPD sets an affordable housing target for development in general, and policy CL2 of the emerging Local Plan Review 2013-2033 Proposed Submission set a specific target for this allocation of 30% affordable dwellings. Policies AL/DE/4 and AL/DE/5 set criteria for the occupation, design and location of affordable dwellings.

The applicant has agreed to enter into a Section 106 Agreement in order to provide 4 affordable dwellings (2 x 2 bed and 2 x 3 bed) on site. The Parish Council has highlighted a need for 8 affordable dwellings in the village and the proposed development will contribute to half of that requirement.

Policy AL/IN/3 requires 60 square metres of equipped and landscaped public open space per dwelling, or if more appropriate an equivalent financial contribution. Culmstock Playing Fields is opposite the site and a financial contribution of £15,665 is to be provided towards Phase 2 of the improvements to the playing fields.

Policy AL/IN/5 provides for new development to cover the cost of additional education provided required to meet the needs of the development. The Parish Council has expressed concern about school capacity and how the figure of 3.25 new primary school age pupils has been arrived at. Devon County Council has a formula for calculating the number of new pupils a development is likely to generate. Based on its figures, Devon County Council considers that there is currently capacity for these pupils at the nearest primary school. It has, however, requested a financial contribution of £41,744 towards additional secondary education infrastructure and secondary education transport costs.

The proposed dwellings would be eligible for counting towards the New Homes Bonus. If the New Homes Bonus is distributed across Council Tax Bands in the same way as in 2015, the award for each house would be £1,028 per year (each affordable house attracting a further £350 bonus), paid for a period 6 years. The amount of New Homes Bonus to be generated by this development would be £63,804.

10. Planning balance

The NPPF contains a presumption in favour of sustainable development and requires local authorities to boost significantly the supply of housing. Part of the site is to be allocated for 10 dwellings under the emerging Local Plan Review and has been released for development following a Cabinet decision on 7th August 2015. The benefit of the provision of 9 market dwellings and 4 affordable dwellings is considered to carry significant weight in determining this planning application. Other benefits include contributions towards public open space and education and the New Homes Bonus which are considered to carry some weight.

The NPPF requires that where Local Plan policies are considered to be out of date (see above), planning permission should be granted unless adverse impacts of doing so would significantly and demonstrably outweigh the benefits. Your officers consider that any harm arising from the development can be adequately mitigated and any additional harm of developing 13 dwellings on the site, rather than the 10 provided for in the allocation, is not significant. Culmstock is considered to be a sustainable location with a good level of services and facilities within walking distance. Your officers are therefore recommending approval of the application, subject to the provision of a Section 106 Agreement and appropriate conditions.

CONDITIONS

1. Before development begins, detailed drawings to an appropriate scale of the appearance of the buildings and the landscaping (the Reserved Matters) shall be submitted to and approved in writing by the Local Planning Authority.
2. Application(s) for approval for all the Reserved Matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

3. The development hereby permitted shall begin either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of approval of the last of the Reserved Matters which have been approved, whichever is the latter.
4. The detailed drawings required to be submitted by condition 1 shall include the following additional information: boundary treatments, existing and proposed site levels, finished floor levels, and sections through the site indicating the relationship of the proposed development with existing development and the road.
5. No development shall begin until an investigation and risk assessment has been completed in accordance with a scheme to assess the nature and extent of any contamination on the site, (whether or not it originates on the site), which shall have been previously submitted to and approved in writing by the Local Planning Authority. The investigation and risk assessment shall be undertaken by competent persons and a written report of the findings produced and submitted to and approved in writing by the Local Planning Authority. The report of the findings shall include:
 - (i) a survey of the extent, scale and nature of contamination;
 - (ii) an assessment of the potential risks to:
 - human health,
 - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
 - adjoining land,
 - groundwaters and surface waters,
 - ecological systems,
 - archaeological sites and ancient monuments;
 - (iii) an appraisal of remedial options, and proposal of the preferred option(s).

This shall be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.
6. Should the report required by condition 10 require remediation to take place, a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment shall be submitted to and approved in writing by Local Planning Authority before development begins. The scheme shall include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.
7. The remediation scheme approved under condition 11 (if required) shall be carried out in accordance with its terms prior to the commencement of development (other than that required to carry out remediation), unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority shall be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out shall be submitted to and approved in writing by the Local Planning Authority.
8. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it shall be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment shall be undertaken in accordance with the requirements of condition 5, and where remediation is necessary a remediation scheme shall be prepared in accordance with the requirements of condition 6, which is subject to the prior approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report shall be submitted to and approved in writing by Local Planning Authority

in accordance with condition 7.

9. No development shall begin until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority to include:
- (a) the timetable of the works;
 - (b) daily hours of construction;
 - (c) any road closure;
 - (d) hours during which delivery and construction traffic arrive at and depart from the site;
 - (e) the compound/location where all building materials, finished or unfinished products, parts, crates, packing materials and waste will be stored during construction;
 - (f) areas on-site where delivery vehicles and construction traffic will load or unload building materials, finished or unfinished products, parts, crates, packing materials and waste
 - (g) details of wheel washing facilities and road sweeping obligations together with dust suppression proposals.

Construction shall take place only in accordance with the approved details.

10. The proposed estate road, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, road maintenance/vehicle overhang margins, embankments, visibility splays, accesses, car parking and street furniture shall be constructed and laid out in accordance with details to be approved by the Local Planning Authority in writing before their construction begins. For this purpose, plans and sections indicating, as appropriate, the design, layout, levels, gradients, materials and method of construction shall be submitted to and approved in writing by the Local Planning Authority.
11. The occupation of any dwelling shall not take place until the following works have been carried out to the written satisfaction of the Local Planning Authority:
- a) The cul-de-sac carriageway including the vehicle turning head within that phase shall have been laid out, kerbed, drained and constructed up to and including base course level, the ironwork set to base course level and the sewers, manholes and service crossings completed;
 - b) The cul-de-sac footways and footpaths which provide that dwelling with direct pedestrian routes to an existing highway maintainable at public expense have been constructed up to and including base course level;
 - c) The cul-de-sac visibility splays have been laid out to their final level;
 - d) The street lighting for the main road, cul-de-sac and footpaths has been erected and is operational;
 - e) The car parking and any other vehicular access facility required for the dwelling by this permission has/have been completed;
 - f) The verge and service margin and vehicle crossing on the road frontage of the dwelling have been completed with the highway boundary properly defined;
 - g) The street nameplates for the cul-de-sac have been provided and erected.
12. Within twelve months of the first occupation of the first dwelling in an agreed phase of the development, all roads, footways, footpaths, drainage, statutory undertakers' mains and apparatus, junction, access, retaining wall and visibility splay works shall be completed to the written satisfaction of the Local Planning Authority.
13. No dwelling shall be occupied until of the off-site highway works for the installation of tactile paving at the road crossings between the site and Prescott Road, and improved crossing between the site and the footpath leading to the play area have been constructed and made available for use, in accordance with details that shall have been previously submitted to and approved in writing by the Local Planning Authority.
14. No dwelling shall be occupied until the Sustainable Urban Drainage Scheme shown on drawing number 2185/500 Rev A has been provided in accordance with the approved details and is operational. Once provided such Sustainable Urban Drainage Scheme shall be managed and maintained in accordance with long term management and maintenance details that shall have been

submitted to and approved in writing by the Local Planning Authority before development begins.

15. The development shall take place only in accordance with the recommendations in the Preliminary Ecological Appraisal by Blackdown Environmental dated April 2016 and the Tree Schedule, Impact Assessment and Arboricultural Method Statements by Blackdown Environmental dated 7th April 2016.
16. Before their use on the development hereby permitted, details/samples of the materials, windows and doors, to be used on the external surfaces of the buildings and in any hard landscaping shall be submitted to and approved in writing by the Local Planning Authority. Only such approved materials shall be used.
17. Any external lighting installed on site shall be in accordance with a sensitive lighting plan that shall have been submitted to and approved in writing by the Local Planning Authority before any external lighting is installed.

REASONS FOR CONDITIONS

1. In accordance with the provisions of Section 92(2) of the Town and Country Planning Act 1990 as amended by Section 51 Planning and Compulsory Purchase Act 2004.
2. In accordance with the provisions of Section 92(2) of the Town and Country Planning Act 1990 as amended by Section 51 Planning and Compulsory Purchase Act 2004.
3. In accordance with the provisions of Section 92(2) of the Town and Country Planning Act 1990 as amended by Section 51 Planning and Compulsory Purchase Act 2004.
4. To ensure that adequate information is available for the proper consideration of the detailed proposals.
5. To ensure that risks from land contamination to future users of the land, neighbouring land and uses, ecological systems and controlled waters are minimised and to ensure the development can be carried out safely, in accordance with policies DM2 and DM7 of the Mid Devon Local Plan Part 3 (Development Management Policies).
6. To ensure that risks from land contamination to future users of the land, neighbouring land and uses, ecological systems and controlled waters are minimised and to ensure the development can be carried out safely, in accordance with policies DM2 and DM7 of the Mid Devon Local Plan Part 3 (Development Management Policies).
7. To ensure that risks from land contamination to future users of the land, neighbouring land and uses, ecological systems and controlled waters are minimised and to ensure the development can be carried out safely, in accordance with policies DM2 and DM7 of the Mid Devon Local Plan Part 3 (Development Management Policies).
8. To ensure that risks from land contamination to future users of the land, neighbouring land and uses, ecological systems and controlled waters are minimised and to ensure the development can be carried out safely, in accordance with policies DM2 and DM7 of the Mid Devon Local Plan part 3 (Development Management Policies).
9. To ensure adequate facilities are available on site during the construction period in the interests of highway safety and to protect the amenities of existing residents, in accordance with policy DM2 of the Mid Devon Local Plan part 3 (Development Management Policies).
10. To ensure that adequate information is available for the proper consideration of the detailed proposals.

11. To ensure that adequate access and associated facilities are available for the traffic attracted to the site, in accordance with policies DM2 and DM8 of the Mid Devon Local Plan part 3 (Development Management Policies).
12. To ensure that the access arrangements are completed within a reasonable time in the interests of safety and the amenity of residents.
13. To minimise the impact of the development on the highway network in accordance with Paragraph 32 of National Planning Policy Framework.
14. To minimise flood risk and provide sustainable drainage on site in accordance with policies COR11 of the Mid Devon Core Strategy (Local Plan Part 1) and DM2 of the Mid Devon Local Plan Part 3 (Development Management Policies).
15. To ensure protected species are not harmed by the development and the hedges and trees contribute towards the visual amenities of the area and the setting of the Blackdown Hills AONB, in accordance with policies COR2 of the Mid Devon Core Strategy (Local Plan Part 1) and DM2 and DM29 of the Mid Devon Local Plan Part 3 (Development Management Policies).
16. To ensure the development makes a positive contribution to the visual amenities of the area and the setting of the Blackdown Hills AONB, in accordance with policies COR2 of the Mid Devon Core Strategy (Local Plan part 1) and DM2 and DM29 of the Mid Devon Local Plan Part 3 (Development Management Policies).
17. In accordance with the recommendations in the submitted ecology report in the interests of protecting bats and to preserve the setting of the Blackdown Hills AONB, in accordance with policies DM2 and DM29 of the Mid Devon Local Plan Part 3 (Development Management Policies).

REASON FOR APPROVAL OF PERMISSION/GRANT OF CONSENT

The development is considered to be acceptable in that it represents a sustainable form of development in accordance with the provisions of the National Planning Policy Framework, the benefits of the scheme in terms of the provision of housing and affordable housing, outweighing any harm identified which is considered to be very limited. Subject to mitigation and conditions, the development is not considered to have an unacceptable impact on highway safety, the environment including flood risk and protected species, heritage assets and local residents. Financial contributions are to be provided in respect of improvements to public open space and education infrastructure and the development attracts the payment of a New Homes Bonus. The development is considered to be in accordance with policies COR1, COR2, COR9 and COR11 of the Mid Devon Core Strategy (Local Plan Part 1), AL/DE/3, AL/DE/4, AL/DE/5, AL/IN/3 and AL/IN/5 of the Allocations and Infrastructure Development Plan Document (Local Plan Part 2), DM1, DM2, DM7, DM8 and DM29 of the Mid Devon Local Plan part 3 (Development Management Policies) and the National Planning Policy Framework. The proposed development is considered to be contrary to policies COR17 and COR18 of the Mid Devon Core Strategy (Local Plan Part 1) and policy CL2 of the emerging Local Plan Review 2013-2033 Proposed Submission in that it provides additional dwellings on a larger site, however, as stated above the benefits of the scheme are considered to outweigh any harm and the development is considered to be in accordance with the National Planning Policy Framework as a whole.

Application No. 16/00920/FULL

Plans List No. 6

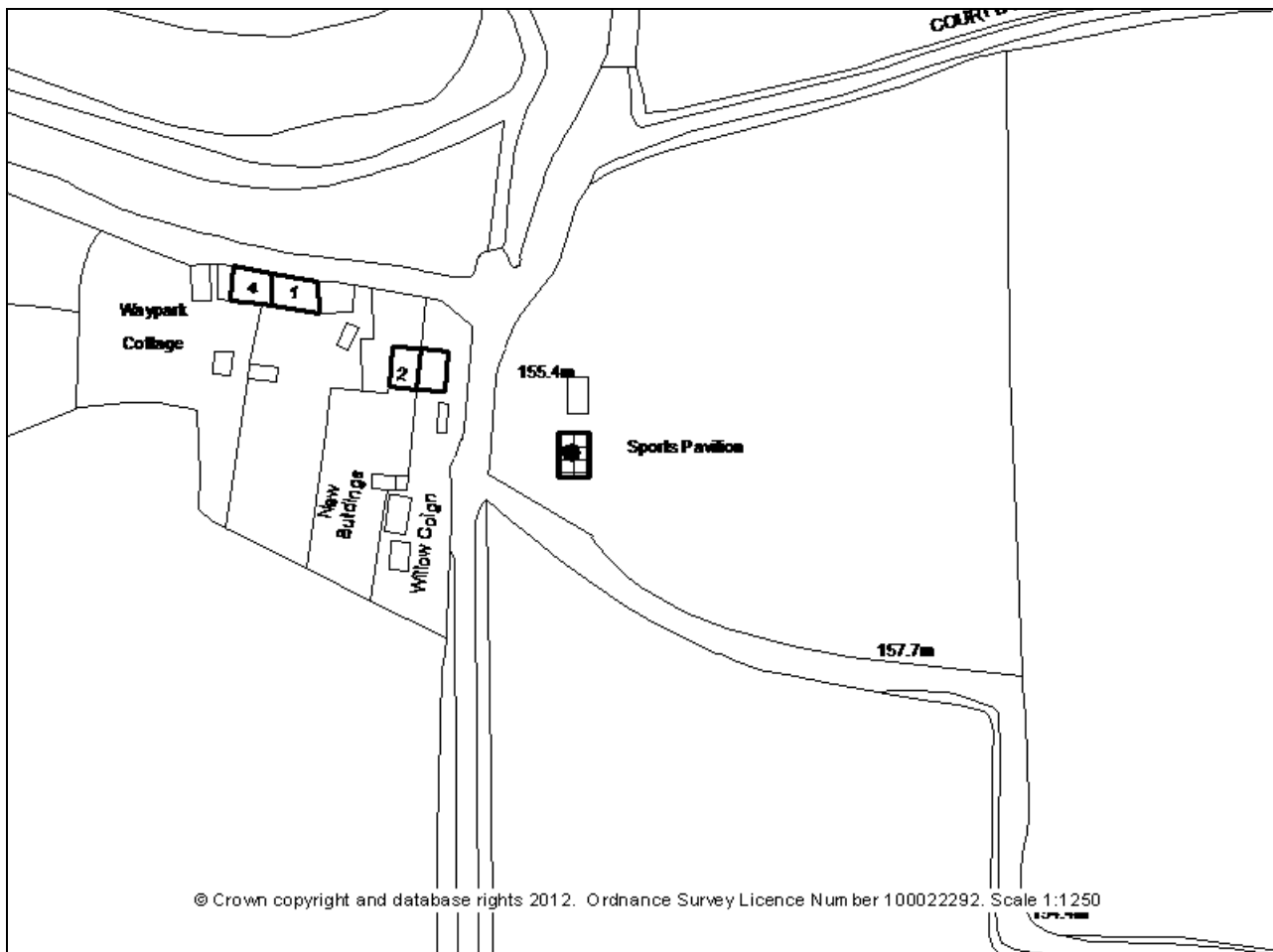
Grid Ref: 296846 : 125364

Applicant: Mr Patrick Hyde

Location: Morebath Cricket Club
Morebath Devon

Proposal: Installation of 10
replacement timber windows
and 4 replacement timber
doors with uPVC

Date Valid: 16th June 2016



Application No. 16/00920/FULL

RECOMMENDATION

Grant permission subject to conditions.

PROPOSED DEVELOPMENT

This application seeks planning permission for the installation of 10 replacement timber windows and 4 replacement timber doors with uPVC at Morebath Cricket Club.

The existing windows and doors are brown, single glazed timber windows. The proposed windows and doors will be rosewood white, double glazed uPVC.

APPLICANT'S SUPPORTING INFORMATION

Pictures
Window specifications
Site location plan

PLANNING HISTORY

90/01299/FULL Replacement pavilion and provision of car park - PERMIT – October 1990
98/01324/FULL Erection of a tractor store - PERMIT – October 1998

DEVELOPMENT PLAN POLICIES

Mid Devon Core Strategy (Local Plan 1)

COR2 - Local Distinctiveness
COR18 - Countryside

Mid Devon Local Plan Part 3 (Development Management Policies)

DM2 - High quality design
DM25 - Community facilities

CONSULTATIONS

HIGHWAY AUTHORITY - 24th June 2016 - No comments

REPRESENTATIONS

No letters of objection were received on the date of officer report (08/07/2016).

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The existing building is in a rural location, and is well screened from surrounding public vantage points by established hedgerow. The cricket pavilion is functional in its appearance, and does not have any significant architectural merit.

The main material considerations in respect of this proposal are:

- 1) Principle for development in this location**
- 2) Design and impact on the character and appearance of the surrounding area and existing building**
- 3) Other**

1) The principle for development/ Impacts on the existing community facility

This development is within the countryside, as defined by COR18 of the Mid Devon Core Strategy (Local Plan part 1). Policy COR18 aims to restrict development within the countryside, however, does provide support for appropriate development such as community facilities.

Policy DM25 of the Local Plan Part 3 (Development Management Policies) specifically deals with the development and/or redevelopment of community facilities. Policy DM25 supports the redevelopment of existing community facilities where the development enables them to modernise, remain viable and continue to be retained for the benefit of the community.

In this case the proposal is to replace windows and doors in a poor condition, with new windows and doors. The proposal is therefore a modernisation of the existing community facility and the Local Planning Authority considers the proposal to have policy support from DM25 of the Local Plan Part 3 (Community Facilities).

2) Design and impact on the character and appearance of the area and existing building

Policy COR2 of the Mid Devon Core Strategy (Local Plan Part 1) and policy DM2 of the Local Plan Part 3 (Development Management Policies) require new development to be of high quality design to ensure that visually attractive places are produced and conserved.

The existing building is not in a conservation area, is not listed, and as mentioned above, has limited architectural merit. The replacement of existing timber windows that are currently in a poor condition, with new uPVC windows is likely to have a neutral/positive effect on the character and appearance of the existing building, and considering the hedgerow screening surrounding the proposal, a very limited effect on the character and appearance of the surrounding area.

Taking into account the above points, the Local Planning Authority consider that the proposal is in accordance with policy DM2 of the Local Plan Part 3 (Development Management Policies), COR2 of the Mid Devon Core Strategy, and guidance in the National Planning Policy Framework.

3) Other considerations

Neighbouring amenity:

The proposal is for replacement windows, and does not result in any additional vantage points which may impact on the amenity of occupiers of neighbouring properties. The proposal is therefore in accordance with policy DM2 of the Local Plan Part 3 (Development Management Policies).

There are no other materials considerations to weigh against the grant of planning permission, and approval subject to conditions is recommended.

CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice.

REASONS FOR CONDITIONS

1. In accordance with the provisions of Section 51 of the Planning and Compulsory Purchase Act 2004.
2. For the avoidance of doubt and in the interests of proper planning.

REASON FOR APPROVAL OF PERMISSION/GRANT OF CONSENT

The proposed replacement windows and doors are considered to be an acceptable design and will not compromise the functions of the existing community facility in accordance with the policy requirements of COR2 and COR18 of the Mid Devon Core Strategy (Local Plan Part 1), and DM2 and DM25 of the Local Plan Part 3 (Development Management Policies). The proposal is considered to be in accordance with relevant planning policies and has been recommended for approval.

Mrs Jenny Clifford
Head of Planning and Regeneration

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DELEGATED APPLICATIONS AS AT - 21 July 2016

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

PURPOSE OF REPORT

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

RECOMMENDATION

That the report be noted.

DETAILS OF DECISIONS

DATE RECEIVED	DATE DETERMINED/ DECISION	REF NUMBER	APPLICANT PROPOSED DEVELOPMENT	PARISH/AREA
26.02.2015	23.06.2016 Permitted with Conditions to Discharge	15/00315/FULL	Mr & Mrs A Skitt Furze Farm Shute Conversion of barns to 5 dwellings	Shobrooke 44
20.03.2015	05.07.2016 Permitted with Conditions to Discharge	15/00437/FULL	Mr Jason Ledward Scotts Business Park Woodland Close Variation of conditions 2 - 15, 17 and 19 of Planning Permission 12/01625/MFUL to vary the plans and	Bampton 01

			allow conditions to be discharged in phases	
09.09.2015	08.07.2016 Permitted with Conditions to Discharge	15/01462/FULL	Mr & Mrs Way Willis Farm Bickleigh Conversion of storage barn to a dwelling	Bickleigh 02
09.09.2015	08.07.2016 Permitted with Conditions to Discharge	15/01463/LBC	Mr & Mrs Way Willis Farm Bickleigh Listed Building Consent for the conversion of storage barn to a dwelling	Bickleigh 02
08.03.2016	01.07.2016 Grant permission	16/00360/LBC	Ms A Reid 15 Millway Bradninch Listed Building Consent for internal and external alterations	Bradninch 04
23.03.2016	15.07.2016 Refuse permission	16/00452/FULL	Mr P Durman Byes Farm Hemyock Demolition of farmhouse and erection of replacement dwelling to incorporate existing stone farmhouse	Hemyock 26
29.03.2016	05.07.2016 Grant permission	16/00481/HOUSE	Mr Taxis Hollis House Blackborough Erection of a garden room and porch following removal of existing porch and outbuilding/fuel store	Kentisbeare 32
30.03.2016	08.07.2016 Permitted with Conditions to Discharge	16/00486/FULL	TMM Holdings Ltd Land at NGR 302553 109249 Five Bridges Erection of an industrial building for agricultural contracting and engineering with associated storage,	Halberton 25

			distribution and retail along with minor alterations to the existing access.	
30.03.2016	04.07.2016 Grant permission	16/00490/FULL	Mr Finning Land at NGR 303826 111652 Muxbeare Lane Variation of condition 2 of Planning Permission 14/01918/FULL to allow the repositioning of the caravan, change of base material, repositioning of utility block and septic tank details as per revised plan	Halberton 25
31.03.2016	05.07.2016 Grant permission	16/00483/LBC	Mr Taxis Hollis House Blackborough Listed Building Consent for the erection of a garden room and porch following removal of existing porch and outbuilding/fuel store	Kentisbeare 32
20.04.2016	13.07.2016 Grant permission	16/00599/FULL	Miss J Harper Land at NGR 307225 110914 Opposite Whitmoor Farm Change of use of land from agricultural to equestrian and erection of stable block/feed store	Uffculme 53
20.04.2016	27.06.2016 Refusal of Prior Approval	16/00607/PNCOU	Mrs R Salmon Land and Buildings at NGR 275669 95145 (Wolfgar Farm) Cheriton Bishop Prior notification for the change of use of agricultural building to dwelling under Class Q	Cheriton Bishop 11
22.04.2016	04.07.2016 Grant permission	16/00620/HOUSE	Mr Andy Stokes Eborworth 9 Middlemead Road	Tiverton 52

			Erection of wooden decking structure and steps to rear elevation	
25.04.2016	15.07.2016 Grant permission	16/00632/FULL	Mr David Whalley Land and Buildings at NGR 290774 104184 (Elm Tree Cottage) Enlargement and reinstatement of existing manege	Cadbury 08
25.04.2016	24.06.2016 Grant permission	16/00633/TPO	Mrs P Burden 3 Pine Close Tiverton Application to crown reduce 1 Wyck Elm tree by 1.5 - 2m protected by Tree Preservation Order 73/00016/TPO	Tiverton 52
26.04.2016	05.07.2016 Permitted with Conditions to Discharge	16/00638/HOUSE	Ms Natalia Quessou 2 Fosterlea Cullompton Engineering works to change ground levels of back yard and formation of access and provision of hardstanding for the parking of vehicles (Revised Scheme)	Cullompton 21
26.04.2016	21.06.2016 Refusal of Prior Approval	16/00642/PNCOU	Mr Robert Hitchings Land and Building at NGR 300369 104999 (North Barn, Bowhill Farm) Prior notification for the change of use of an agricultural building to dwelling under Class Q	Bradninch 04
27.04.2016	22.06.2016 Grant permission	16/00646/HOUSE	Mr & Mrs N Robson 9 Rogers Close Tiverton Erection of single storey rear extension after demolition of existing conservatory	Tiverton 52

27.04.2016	22.06.2016 Refuse permission	16/00648/FULL	Mrs Christine Hunt Land at NGR 290517 114096 (Great Bradley Cottage) Change of use from agricultural land to sui generis (Green Burial Ground)	Tiverton 52
27.04.2016	22.06.2016 Refuse permission	16/00651/FULL	Mrs C Hunt Land at NGR 290552 114139 (Great Bradley Cottage) Templeton Removal of condition (3) of planning permission 01/00258/FULL relating to number of burials in a 12 month period	Tiverton 52
27.04.2016	04.07.2016 Grant permission	16/00652/HOUSE	Mr B Pearson Partridge Farm Templeton Erection of a replacement porch following demolition of existing conservatory, and refurbishment of outbuilding	Templeton 49
27.04.2016	05.07.2016 Grant permission	16/00653/LBC	Mr Bruce Pearson Partridge Farm Templeton Listed Building Consent for the erection of a replacement porch following demolition of existing conservatory, and refurbishment of outbuilding	Templeton 49
28.04.2016	30.06.2016 Permitted with Conditions to Discharge	16/00650/FULL	Mr K Miller Ringstone Oakford Erection of a double garage/store, extension to existing barn and construction of a manege	Oakford 39
28.04.2016	20.06.2016 Grant permission	16/00663/LBC	Ms H Lawson Harefields & Crimmond Jericho Street	Thorverton 51

			Listed Building Consent for internal alterations to remove flying freehold and alterations to staircases	
29.04.2016	13.07.2016 Permitted with Conditions to Discharge	16/00668/FULL	Mr David Pearce Land and Buildings at NGR 274687 94504(South Pitton Farm) Cheriton Bishop Erection of 2 holiday cottages following demolition of existing agricultural building	Cheriton Bishop 11
29.04.2016	22.06.2016 Permitted with Conditions to Discharge	16/00673/HOUSE	Miss E Benjamin 2 Croft Cottages Cheriton Bishop Removal of external block wall and replacement with two storey extension	Cheriton Bishop 11
29.04.2016	22.06.2016 Permitted with Conditions to Discharge	16/00674/LBC	Miss E Benjamin 2 Croft Cottages Cheriton Bishop Listed Building Consent for removal of external block wall and replacement with two storey extension to include internal and external alterations	Cheriton Bishop 11
29.04.2016	20.06.2016 Grant permission	16/00676/ADVERT	Mr P Crouch Clarks Shoes 14 - 16 Bampton Street Advertisement Consent to display 2 non-illuminated fascia signs and 1 non-illuminated hanging sign	Tiverton 52
29.04.2016	20.06.2016 Grant permission	16/00677/LBC	Mr Paul Crouch Clarks Shoes 14 - 16 Bampton Street Listed Building Consent for the re-decoration of existing shopfront and erection of 2 non-illuminated fascia signs and 1 non illuminated hanging sign	Tiverton 52

29.04.2016	30.06.2016 Permitted with Conditions to Discharge	16/00678/ARM	Mrs P Martin Land at NGR 270670 101122 (Hampson Farm) Reserved Matters for the erection of an agricultural worker's dwelling	Bow 03
03.05.2016	28.06.2016 Grant permission	16/00679/HOUSE	Ms Philippa Pounder Wallbrooke Crediton Erection of two storey extension after demolition of existing	Crediton Town 18
03.05.2016	19.07.2016 Permitted with Conditions to Discharge	16/00682/FULL	Mrs A Rickard & Mr B Minhinnock Land and Buildings at NGR 288485 115831 (Middle North Coombe) Templeton Variation of conditions (2) (6) and (10) of planning permission 14/00800/FULL to allow the substitution of amended plans and reduce the number of dwellings from 3 to 2	Templeton 49
03.05.2016	04.07.2016 Grant permission	16/00688/FULL	Butterleigh Parish Meeting Land at NGR 297189 108099 (Adjacent Homefield) Butterleigh Change of use of agricultural land to community space, improvements to access and siting of container	Butterleigh 07
03.05.2016	01.07.2016 Grant permission	16/00695/HOUSE	Ms L Milleret 1 Bridge Terrace Bampton Erection of two-storey extension	Bampton 01
03.05.2016	12.07.2016 Grant permission	16/00696/FULL	Mrs M Burrows Village Hall Coldridge Erection of extension	Coldridge 16

03.05.2016	28.06.2016 Permitted with Conditions to Discharge	16/00698/HOUSE	Mr & Mrs Salomonsen Coach House Church Close Erection of an extension and alterations to existing coach house	Cadeleigh 09
03.05.2016	13.07.2016 Grant permission	16/00701/FULL	Ms T Herbert Building at NGR 274759 102721 (Clannaborough Barton) Change of use of existing agricultural building to mixed B1/B8 use	Clannaborough 13
03.05.2016	29.06.2016 Permitted with Conditions to Discharge	16/00702/FULL	Ms T Herbert Building at NGR 274759 102721 (Clannaborough Barton) Bow Removal of Condition (5) of planning permission 98/01952/FULL to allow the use of the building for purposes other than agriculture	Clannaborough 13
04.05.2016	22.06.2016 Grant permission	16/00689/TPO	Mrs Easton 11A Oak Drive Cullompton Application to reduce stems growing towards south side of house and over garden by 3m, removal of 1 low limb/stem growing north facing and removal of deadwood protected by Tree Preservation Order 83/00003/TPO	Cullompton 21
04.05.2016	29.06.2016 Grant permission	16/00692/LBC	Lapford Congregational Church Congregational Church Lapford Listed Building Consent for the removal of pews from church and replace with chairs	Lapford 33

04.05.2016	27.06.2016 Grant permission	16/00703/FULL	Mr N Bewley Unit 8F Greenham Business Park Installation of 6 first floor windows	Holcombe Rogus 29
04.05.2016	20.07.2016 Grant permission	16/00704/HOUSE	Mr John & Mrs Fran Knight 5 Butterleigh Drive Tiverton Erection of an extension to incorporate outbuilding and installation of dormer window to roof	Tiverton 52
05.05.2016	29.06.2016 Grant permission	16/00706/HOUSE	Mr W Stanbury 8 Orchid Close Tiverton Erection of single storey rear extension	Tiverton 52
06.05.2016	29.06.2016 Grant permission	16/00707/FULL	Mr J F Panvert Stear House Racing Stables Stoodleigh Variation of Condition (1) of planning permission reference 02/01026/FULL to include the addition an agricultural occupancy condition	Stoodleigh 48
06.05.2016	01.07.2016 Grant permission	16/00711/FULL	Mrs J Pring Land at NGR 309735 116977 (South of Lane End Cottage) Burlescombe Erection of stable block and formation of manege	Culmstock 22
09.05.2016	18.07.2016 Grant permission	16/00713/HOUSE	Mr J Maguire Cleve Cottage Craddock Erection of front porch	Uffculme 53
09.05.2016	08.07.2016 Permitted with Conditions to Discharge	16/00716/ARM	Mr T Newstead, Moorview Homes Ltd Orchard Cottage Churchill Drive Reserved matters for the erection of 3 dwellings and construction of new	Crediton Town 18

			vehicular accesses	
09.05.2016	29.06.2016 Grant permission	16/00719/LBC	Mr P Stott Mellow Thatch Church Street Listed Building Consent for installation of 5 replacement windows	Morchard Bishop 35
10.05.2016	01.07.2016 Grant permission	16/00708/FULL	Mr Alan Musker 3 Coles Cottages Shillingford Replacement of rear lean to with part single, part two storey & Oak framed extension	Bampton 01
10.05.2016	22.06.2016 Grant permission	16/00715/HOUSE	Mr & Mrs S Talling Western Cottage Blackborough Erection of extension to existing lean- to and increase in roof pitch over lean- to	Kentisbeare 32
10.05.2016	30.06.2016 Permitted with Conditions to Discharge	16/00726/HOUSE	Mr J Reed 10 Cherry Tree Gardens Tiverton Erection of single storey extension	Tiverton 52
11.05.2016	11.07.2016 Permitted with Conditions to Discharge	16/00733/FULL	Mrs P Lyon-Smith Land and Buildings at NGR 285038 106120 (Cobble Lodge) Stockleigh English Change of use of residential annexe and attached barn to form separate dwelling	Stockleigh English 46
12.05.2016	28.06.2016 Grant permission	16/00736/HOUSE	Mr S & Mrs C Whetton Bray Western Road Erection of a single storey side and rear extension to include garage	Crediton Town 18

12.05.2016	08.07.2016 Grant permission	16/00739/HOUSE	Miss D Dudley 2 Scotts Shute Culmstock Erection of garden room following removal of existing conservatory and porch	Culmstock 22
12.05.2016	08.07.2016 Grant permission	16/00740/HOUSE	Miss Diana Dudley 1 Scotts Shute Culmstock Erection of garden room following removal of existing conservatory and porch	Culmstock 22
12.05.2016	29.06.2016 Grant permission	16/00745/HOUSE	Mr & Mrs Hector Fernleigh Burlescombe Installation of 3 dormer windows and 1 replacement dormer window	Burlescombe 06
12.05.2016	30.06.2016 Grant permission	16/00748/HOUSE	Mr D & Dr A Haggett Ashley Court Cottage Ashley Erection of a garage following demolition of existing (Revised Scheme)	Tiverton 52
13.05.2016	15.07.2016 Withdrawn	16/00742/PNCOU	Mr Robert Peck Serstone Farm Down St Mary Prior notification for the change of use of agricultural building to dwelling under Class Q	Zeal Monachorum 61
13.05.2016	07.07.2016 Grant permission	16/00758/HOUSE	Mrs S Waddington Patrona Calverleigh Erection of two storey extension, utility room and decking to rear (Revised Scheme)	Loxbeare 34

13.05.2016	29.06.2016 Grant permission	16/00762/FULL	Mr C Gold Land and Buildings at NGR 289692 113736 Titchens Lane Retention of a replacement agricultural machinery and workshop building	Tiverton 52
16.05.2016	27.06.2016 No Objection	16/00754/CAT	Mrs D Hotton 19 Silver Street Thorverton Notification of intention to remove 1 Oak tree within the Conservation Area	Thorverton 51
16.05.2016	12.07.2016 Grant permission	16/00765/FULL	Mr M Ackland Land at NGR 289114 116872 (Forward House) Loxbeare Erection of workshop, provision of an additional hardstanding car parking area and the retention of a fenced secure compound	Loxbeare 34
17.05.2016	14.07.2016 Development Acceptance	16/00767/PNCOU	Mr & Mrs P Tucker Land at NGR 285670 111195 (The Barn) Puddington Prior notification for the change of use of agricultural building to dwelling under Class Q	Cruwys Morchard 20
18.05.2016	20.07.2016 Withdrawn	16/00774/FULL	Mr N Paterson Crediton Tool Hire Union Road Change of use of ground floor from commercial tool hire to retail bike outlet, showroom and workshop; Conversion and extension of first floor from a flat to 6 bedroomed communal accommodation to accommodate customers of the biking business and conversion of second floor from 1 flat	Crediton Town 18

			to 2 one bedroom flats	
18.05.2016	18.07.2016 Permitted with Conditions to Discharge	16/00775/FULL	Mr A Short Townville Templeton Creation of new vehicular access and improvements to existing agricultural field entrance to form entrance drive and associated parking within domestic curtilage	Templeton 49
18.05.2016	22.06.2016 Grant permission	16/00780/HOUSE	Mrs K Barker 27 Court Drive Cullompton Erection of conservatory	Cullompton 21
19.05.2016	22.06.2016 Withdrawn	16/00778/FULL	Mr M Lane 10 Westgate Lapford Erection of dwelling (Revised Scheme)	Lapford 33
19.05.2016	28.06.2016 Grant permission	16/00783/HOUSE	Dr & Mrs Andrew Smith Pindyhayes Cheriton Bishop Erection of an extension with single pitched roof over existing and new extensions, relocation of front door to south east elevation with a replacement porch	Cheriton Bishop 11
19.05.2016	13.07.2016 Grant permission	16/00795/FULL	Mr I Coren Land and Buildings at NGR 277046 097655 (The Granary) Mill Farm Conversion and extension of barn to dwelling	Crediton Hamlets 19
20.05.2016	15.07.2016 Permitted with Conditions to	16/00798/FULL	Mr G Yardley Hazel Croft Whitnage Erection of replacement dwelling	Sampford Peverell 42

	Discharge			
20.05.2016	15.07.2016 Permitted with Conditions to Discharge	16/00800/HOUSE	Mrs Jill Doig 48 Brook Street Bampton Erection of a conservatory following demolition of existing (Revised Scheme)	Bampton 01
20.05.2016	15.07.2016 Grant permission	16/00803/LBC	Mrs Jill Doig 48 Brook Street Bampton Listed Building Consent for the erection of a conservatory following demolition of existing (Revised Scheme)	Bampton 01
23.05.2016	18.07.2016 Grant permission	16/00792/HOUSE	Mr Gary Coates 1 Burrington Drive Shobrooke Erection of a first floor extension and garage	Shobrooke 44
23.05.2016	27.06.2016 Withdrawn	16/00793/CLP	Miss Mary L Noble Meadowbank Buller Road Certificate of Lawfulness for the proposed formation of access and provision of hardstanding for the parking of vehicles	Crediton Town 18
23.05.2016	15.07.2016 Grant permission	16/00806/HOUSE	Mr J Walker 8 John Street Tiverton Erection of single storey rear extension to replace existing	Tiverton 52
24.05.2016	15.07.2016 Grant permission	16/00812/HOUSE	Miss S Phillips 7 Hillcrest Tiverton Erection of a two-storey extension	Tiverton 52

06.06.2016	15.07.2016 No Objection	16/00859/CAT	Exeter Diocese St Georges Vicarage St Andrew Street North Notification of intention to reduce low canopy to 4m and reduce crown by 4m of 1 Common Horse Chestnut, reduce crown by 4m of 1 Common Ash and fell to ground level 1 Leyland Cypress, 4 Common Ash, 3 English Elm and 1 Sycamore within the Conservation Area	Tiverton 52
08.06.2016	18.07.2016 No Objection	16/00873/CAT	Prof. S Harrison Pump Cottage Pump Street Notification of intention to remove 1 Cedar tree within the Conservation Area	Newton St Cyres 37
08.06.2016	18.07.2016 No Objection	16/00874/CAT	Mrs R Callow Forge House 60 Higher Street Notification of intention to fell 4 Fraxinus Excelsior (Ash) trees to ground level within the Conservation Area	Cullompton 21
10.06.2016	15.07.2016 Withdrawn	16/00897/OUT	Mr J Tucker Kenwith Peep Lane Outline for the erection of 2 dwellings following demolition of existing dwelling	Crediton Town 18
17.06.2016	19.07.2016 Development Acceptance	16/00932/PNAG	Mr L and Mrs A Delve Wyke Hill Gardens Shobrooke Prior notification for the erection of an agricultural building for machinery storage/repair workshop	Shobrooke 44

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.

<i>Item</i>								<i>Expected Decision Level</i>	
<i>No.</i>	<i>Weeks</i>	<i>TARGET DATE</i>	<i>REFVAL</i>	<i>PROPOSAL</i>	<i>LOCATION</i>	<i>NAME</i>	<i>Delegated</i>	<i>Committee</i>	
1	4	19/09/2016	16/00918/MOUT	Outline for the erection of 22 dwellings	Land at NGR 313224 113301 (West of Conigar Close) Culmstock Road Hemyock Devon	Ms Tina Maryan	COMM	COMM	
2	4	19/09/2016	16/00924/MOUT	Outline for the erection of approximately 60 dwellings, a Doctors' Surgery, and means of access	Land and Buildings at NGR 277744 102582 (East of Dulings Farm) Copplestone Devon	Mr Simon Trafford	COMM	COMM	
Page 135	6	01/09/2016	16/00825/MFUL	Construction of an anaerobic digestion plant including vehicular access from Down End, provision of infrastructure works to support the plant including creating compensatory flood storage and regrading of land and landscaping and all associated works and development	Land at NGR 284938 100390 (Goosealler Marshes) Commonmarsh Lane Lords Meadow Industrial Estate Crediton Devon	Mr Simon Trafford	COMM	COMM	
	10	09/08/2016	16/00693/MOUT	Outline for the erection of 13 dwellings	Land at NGR 310280 114261 Hunters Hill Culmstock Devon	Ms Tina Maryan	COMM	COMM	
	5	15	30/06/2016	16/00473/MARM	Reserved Matters for the erection of 26 dwellings with associated vehicular and pedestrian accesses	Land at NGR 295240 122009 (adj. to Former School) Bampton Devon	Miss Lucy Hodgson	DEL	
6	23	05/05/2016	16/00015/MFUL	Erection of an 83 bedroom 'Premier Inn' hotel and integral restaurant with associated access and landscaping, including partial demolition of multi- storey car park	Multi Storey Car Park Phoenix Lane Tiverton Devon	Miss Lucy Hodgson	COMM	COMM	
7	111	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	

<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	116	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
9	170	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 28 June 2016 to 20 July 2016

Application No	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
15/01434/FULL	Change of use of land from agriculture to outdoor riding arena for private use (Revised Scheme)	Land at NGR 310743 113848 Blackwater Road Culmstock Devon	Refuse permission	Delegated Decision	Refuse permission	Written Representations	Appeal Dismissed

Summary of Inspectors Comments

The site is located in Flood Zone 2 and 3. The Inspector found that the proposed arena and associated engineering operations were not exempt from the sequential test as the proposal was not purely for a change of use of land. It was concluded that the proposed development would increase flood risk and that there was a reasonably available site in Flood Zone 1. The Council were correct not to apply the exemption test, only where it can be demonstrated there are no reasonably available alternative sites with a lower flood risk, can proposals be assessed in accordance with the exemption tests in paragraph 102 of the Framework. The proposed development was found to be contrary to Policies COR11, DM2 and DM23.

15/01622/FULL	Erection of an agricultural worker's dwelling and an agricultural livestock building	Land at NGR 316711 110152 (Ten Oaks Farm) Clayhidon, Devon	Allowed on appeal	Committee Decision	Allowed on appeal	Informal Hearing	Allow with Conditions
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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 main issues in this case are whether having regard to national and local planning policies which seek to avoid new isolated homes in the countryside, whether there is an essential need for a rural worker to live permanently at or near their place of work in the countryside; and the effect of the proposal on the landscape character of the area and Blackdown Hills Area of Outstanding Natural Beauty (AONB)

Essential need The holding extends to 5.1 Hectares 5 portal framed building housing 50 calves etc, with older calves in the fields. COR18 was found to be consistent with NPPF para 55.

Enterprise involves buying calves at a few days old and then rearing them by bucket before weaning. The new agricultural building would allow the appellant to extend his enterprise and increase the capacity of the unit allowing yearly throughput of up to 400 calves. The new building would also provide additional storage space.

The Parish Council questions whether the existing and proposed extended enterprise requires a full time worker. The inspector stated there was no reason to reach a different conclusion to my colleague in respect of this matter. There is a specific need for a worker to be permanently on site. This is not disputed by the Council which considered that an increase in stock numbers would necessitate more of an onsite presence than a smaller number of stock.

It was agreed that there are no available dwellings suitable or within close proximity to the site. Although questions were raised at both the application and appeal stage as to the level of profit made, and whether this could support the new development on the site, there is nothing within the development plan or national planning policy which requires a stated amount of profit be made to demonstrate that the enterprise is viable.

The proposed dwelling is of a modest scale and the new agricultural building is reasonably necessary to support the expansion of the farming activity on the farm.

concluded that there is an essential need for a rural worker to live permanently at or near their place of work in the countryside.

Found that the buildings would not be unduly prominent in the wider landscape.

Concern has been raised that the proposal may establish a precedent for similar development in the area. Each application and appeal must be determined on its individual merits, and a generalised concern of this nature does not justify withholding permission in this case.

Local residents have expressed concern about the lack of a mains water supply serving the site, and expressed concerns about animal welfare in this regard. The appellant has indicated that he harvests rain water. This system has been successful in providing water to both the mobile home and for use by the farming enterprise.

The Council has not objected to the water supply serving the site, and in the absence of evidence to demonstrate otherwise, I have no reason to reach a contrary view to the Council in this respect.

In accordance with the Council's Supplementary Planning Document 'The Provision and Funding of Open Space Through Development', It is confirmed there is a need to pay for this requirement.

All Conditions have been accepted that were put forward including the removal of the agricultural barn if no-longer required.

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Application No	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
16/00345/PNFG	Prior Notification for the erection of a storage barn	Land at NGR 271756 92461 (Tennantspiece Cottage) Hittisleigh Devon	Refusal of Prior Approval	Delegated Decision	Refusal of Prior Approval	Written Representations	Appeal Dismissed

Summary of Inspectors Comments

The appeal related to a prior notification under the Town and Country Planning (General Permitted Development)(England) Order 2015- part 6, class E Forestry Development. The site for the proposed building is a small paddock adjacent to the appellants house which is closely mown and has the appearance of domestic usage. The inspector concluded that the land where the building is proposed is clearly not part of the separate forestry holding and therefore the proposal does not fall within the provisions of Schedule 2 Part 6 Class E of the GPDO. The appeal is dismissed.

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AGENDA ITEM 11

PLANNING COMMITTEE

DATE: 3rd August 2016

REPORT OF JENNY CLIFFORD, THE HEAD OF PLANNING AND REGENERATION

14/00881/MOUT – OUTLINE FOR A MIXED USE DEVELOPMENT COMPRISING UP TO 700 DWELLINGS, 22,000 SQUARE METRES OF B1/B8 EMPLOYMENT LAND, CARE HOME, PRIMARY SCHOOL AND NEIGHBOURHOOD CENTRE WITH ASSOCIATED ACCESS INCLUDING A LEFT IN LEFT OUT JUNCTION ON THE WESTBOUND A361 AND ACCESS AND EGRESS ON TO BLUNDELLS ROAD.

Cabinet Holder Cllr Richard Chesterton
Responsible officer Jenny Clifford

Reason for Report: In light of ongoing negotiations over this application post Committee, to consider several proposed amendments to the draft S106 and planning conditions as a result.

RECOMMENDATIONS:

- 1. To amend draft condition 10 to allow development to commence on site, up to and including the occupation of 270 dwellings (or the equivalent amount of employment floorspace in traffic generation terms north of Blundells Road), prior to the construction of the full A361 road junction and its opening for public use. Amended wording as follows:**

10. ‘Either no more than 270 dwellings may be occupied on site or no employment floorspace over and above the amount (sq metres) equivalent to the occupation of 270 dwellings (equivalent in terms of traffic generation numbers) may be occupied on land to the north of Blundell’s Road until the construction and opening for public use of the full A361 road junction and the linking road to Blundell’s Road granted under permission 14/01168/MFUL (or as amended by a subsequent planning permission for this highway infrastructure)’.

Reason: To ensure delivery of the full A361 road junction whilst ensuring adequate on site facilities are available for all traffic attracted to the site up to the specified amount of residential or employment development in the interest of the safety of all users of the adjoining public highway and to protect the amenities of the adjoining residents and area in accordance with policy in National Planning Policy Framework’.

- 2. To amend the draft condition 11 to allow the construction and occupation of employment land north of Blundell’s Road without the need for the roundabout at the junction with Blundell’s Road. Amended wording as follows:**

11. 'No residential development hereby approved shall take place on land to the south of Blundell's Road until the roundabout at the junction of Blundell's Road with the link road hereby approved under permission 14/01168/MFUL (or as amended by a subsequent planning permission for this highway infrastructure) has been constructed and made available for use'.

Reason: To minimise the impact of the development on the highway network in accordance with policy in National Planning Policy Framework'.

3. To amend the draft S106 agreement allow a change in the mix of affordable housing tenure; to allow 60% affordable rent units and 40% intermediate units. Previous committee resolution to be amended as follows:

i) 22.5% affordable housing on site to be provided for occupation on a 60% affordable rent and 40% intermediate tenure mix.

Relationship to Corporate Plan: To ensure the delivery of key plans for Mid Devon, including a thriving economy, better homes, empowering local communities and caring for the environment.

Financial Implications: Benefits in bringing forward development more quickly to trigger the payment of contributions towards traffic and social infrastructure and to deliver housing that will assist the Council's 5 year land supply of housing sites.

Legal Implications: To update the previous committee resolution to ensure compliance and avoid risk of legal challenge.

Risk Assessment: The risks are set out in the main body of the report.

1.0 BACKGROUND.

1.1 Application 14/00881/MOUT was submitted in outline and was for ' a mixed use development comprising up to 700 dwellings, 22,000 square metres of B1/B8 employment land, care home, primary school and neighbourhood centre with associated access including a left in left out junction on the westbound A361 and access and egress onto Blundells Road – land east of Tiverton, south of A361, and both north and south of Blundells Road Uplowman Road Tiverton Devon'. Work towards the S106 agreement has and is on-going, seeking to resolve outstanding issues. A 'mini' S106 has now been completed relating to Blundell's Road traffic calming. Its engrossment has ensured that funding has been committed, by the applicant, to the Blundell's Road traffic calming scheme, whilst the remaining issues of the S106 are negotiated. It commits funding, prior to the start of the traffic calming

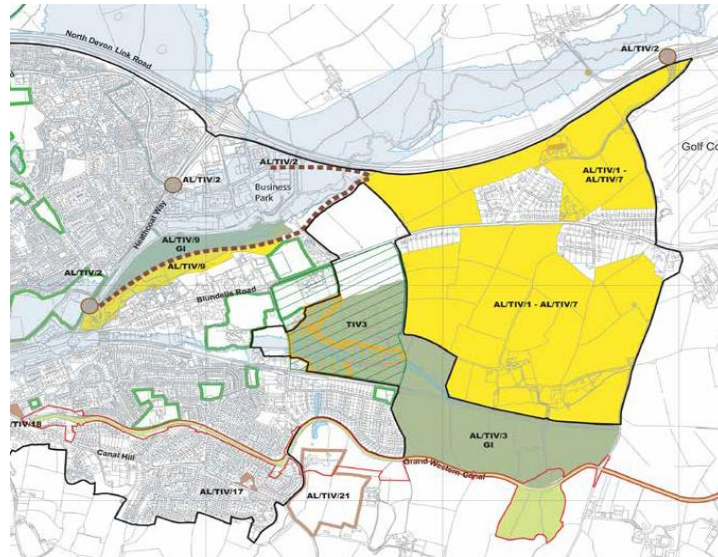
works, scheduled for July 2016. The 'mini' S106 will sit beside the main S106 delivering the committee resolution.

- 1.2 At the meeting of 23rd April 2015, Planning Committee resolved to grant planning consent on land within the Tiverton Eastern Urban Extension for up to 700 dwellings and 22,000sqm employment floor space subject to the signing of a S106 and conditions (application 14/00881/MOUT). The full Committee resolution on Application 14/00881/MOUT is set out in **Appendix 1** of this report. Negotiations regarding the S106 have been on-going. It is as a result of these negotiations that this report presents proposed changes to the S106 and also certain draft conditions. The application has not yet received planning permission as the S106 is unsigned.
- 1.3 In considering this report it is brought to Members attention that following on-going negotiations focused around the S106 agreement further amendments to draft conditions which will be the subject of a further report to planning committee (August meeting). A variation of condition application relating to the A361 Road Junction permissions will also be required and will also be addressed within the same report in August. The main points will relate to:
- The community centre land;
 - Timing of development;
 - Connection from the land holding on Area A (Chettiscombe Trust land) to Area B.
 - The second acoustic fence on the A361 road junction; and
 - Timing for the completion of the planting on the A361 road junction

2.0 POLICY BACKGROUND.

- 2.1 The Allocations and Infrastructure Development Plan Document (AIDPD) (adopted 2011) allocates sites for development. One such site is the 153 hectare mixed use site east of Tiverton, referred to as the Tiverton Eastern Urban Extension (EUE). This major strategic allocation reflects the approach of the Core Strategy to concentrate growth in Tiverton and Cullompton. Policy AL/TIV/1 of the AIDPD provides detail of its development:

- 1550 - 2000 dwellings, including a proportion of affordable housing.
- 95,000 - 130,000 sqm of employment floor space.
- Transport provision to ensure appropriate accessibility for all modes.
- Environmental protection and enhancement.
- Community facilities to meet local needs arising.
- Carbon reduction and air quality improvements.
- An agreed phasing strategy to bring forward development and infrastructure whilst retaining overall development viability.



Extract of development area from key diagram for Tiverton Allocations and Infrastructure Development Plan Document.

- 2.2 Policy AL/TIV/7 of the AIDPD outlines the need for the master planning of the site leading to the adoption of a Supplementary Planning Document. The Tiverton EUE Masterplan SPD was adopted by the Council in April 2014.
- 2.3 The production of the Masterplan SPD was made more complicated by the absence of some site-wide survey work. As a consequence it does not fully resolve the land use issues across the whole allocation. It therefore makes reference to the fully surveyed land area as Area A and the area of unresolved land use planning, as Area B. In the short term it results in a two phase delivery of the EUE. Area A and associated road infrastructure ahead of Area B. In the interest of delivering a comprehensive scheme the southern land parcel of Area A will make provision for access into Area B by means of a primary route through it and up to the boundary of Area B.
- 2.4 This report relates to Application 14/00881/MOUT (Chettiscombe Trust) that forms the majority part of Area A.

3.0 RELEVANT PLANNING HISTORY.

13/01616/MOUT – ‘Outline for the development of up to 330 dwellings together with public open space, associated infrastructure and other works including vehicular access, pedestrian/cycle links and highway improvements’. Granted September 2015.

14/00604/MFUL - ‘Erection of care home and 12 apartments with associated access, parking and landscaping, following demolition of existing hospital buildings (revised scheme)’ at Post Hill Hospital, Tiverton. Resolution to grant permission subject to a S106 agreement August 2014.

14/00667/MFUL – ‘Construction of a ‘left in left out’ road junction with associated engineering works, drainage facilities, embankment, soft landscaping and noise barrier’. Granted September 2014.(Phase 1 of highway junction relating to land to the south of the A361 only)

14/01168/MFUL – ‘Construction of a ‘cloverleaf’ road junction with access and egress onto both the eastbound and westbound carriageways of the A361 with associated engineering works, drainage facilities, embankments, road bridge, lighting, soft landscaping and a noise barrier to the rear of the houses on Uplowman Road, a roundabout, a stretch of connecting highway and a junction and access onto Blundell's Road with associated engineering works and landscaping’. Granted October 2014. (Phases 1 and 2 of highway junction relating to land to the north and south of the A361).

4.0 PROPOSED AMENDMENTS TO S106 / CONDITIONS ON 14/00881/MOUT.

4.1 Timing of development in relation to the new A361 junction.

4.1.1 Application 14/00881/MOUT has a resolution to grant planning permission subject to a signed S106 agreement and conditions. As drafted, condition 10 of the Committee Resolution is proposed as follows:

‘No development shall take place on site until the Left in Left out junction onto the A361 previously consented under LPA ref: 1400667/MFUL has been constructed and made available for use.

REASON: to ensure that adequate on site facilities are available for all traffic attracted to the site during the construction period, in the interest of the safety of all users of the adjoining public highway and to protect the amenities of the adjoining residents, and in accordance with policy in National Planning Policy Framework’.

and Condition 11:

‘No development hereby approved shall take place on land to the south of Blundell’s Road and / or the employment land until the roundabout at the junction of Blundell’s Road and the link road hereby approved has been constructed and made available for use.

REASON: To minimise the impact of the development on the highway network in accordance with policy in National Planning Policy Framework’.

4.4.2 This report seeks a change to that resolution to allow development to commence on site, up to and including the occupation of 270 dwellings, prior to the completion of the full A361 road junction. The Adopted Masterplan SPD (part 6.4) outlines that completion of the full A361 junction shall be completed

prior to the occupation of no more than 600 dwellings on the Eastern Urban Extension. Waddeton Park have consent to construct and occupy 330 dwellings without the need for the Left In Left Out or full A361 road junction. As such, in accordance with the adopted masterplan there are a remaining 270 dwellings that can be occupied before the completion of the full junction.

4.4.3 Funding to deliver the full A361 road junction is proposed as follows:

Funding Source	Contribution (£)
Waddeton Park (secured)	£1.7 million
Chettiscombe Trust (subject to S106)	£3.7 million
Area B (projected)	£2.6 million
LEP (match funding)	Up to £7.5 million
TOTAL	£15.5 million

4.4.4 Early development /delivery of housing is required to release development value on the site in order to be able to make the A361 financial contribution payments. As existing Condition 10 thwarts development on the Chettiscombe Trust land such that no development can take place until the junction has been constructed and made available for use. The first homes will therefore be provided after the up-front provision of highway infrastructure and yet the junction requires financial contributions from development in order to be built. This burdens the applicant such that the land is less attractive to developers building out the scheme which as a consequence thwarts the funding stream towards the delivery of the junction. There is a resulting mis-match between development on the ground and contributions required to service the construction of the A361 junction. Unless an amendment is made, it is likely that the junction and development will stall.

4.4.5 The full A361 road junction is due to commence on site in earnest, during 2017, for completion in 2018. Latest projections indicate that a single housebuilder would aim to build approximately 50 dwellings per year, but this may not be achieved in year 1. This rate is accelerated if more than one developer is operating on the site at the same time.

4.4.6 Prior to the completion of the full A361 road junction, it is considered there would potentially be three developers operating on the EUE at the same time, two on Waddeton Park land and one on Chettiscombe Trust land. The table below illustrates the anticipated housing delivery trajectory for the first few years:

Anticipated Housing Completions		
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Year	Waddeton Park completions assuming two developers	Chettiscombe Trust completions assuming 1 developer in these early years	Total per year	Running total
2017	50	25	75	75
2018	75	50	125	200

Whilst completion numbers are modest, there are clear implications associated with resulting traffic movements being directed down Blundell's Road during this period.

- 4.4.7 In allowing Condition 10 to be amended to deliver some housing (or equivalent employment floorspace) in advance of the new junction, there would be a general acceptance that construction traffic (for the housing element only as the A361 construction traffic would be taken directly off the A361) and traffic following occupation of completed properties would come along Blundell's Road until such time that the A361 road junction is completed and open to the public. The Waddeton Park development of 330 dwellings is able to be built out without the new A361 junction. Traffic in connection with this development will already travel along Blundell's Road.
- 4.4.8 Development has not commenced on the Waddeton Park site as early as anticipated. Waddeton Park has indicated that a reserved matters application will be submitted towards the end of August 2016. Commencement on site would be anticipated late spring 2017 and first occupation late 2017. DCC have advised that the quantity of vehicles coming to the site is not easily quantifiable at this point in time but would be more readily available through Condition 14 relating to the submission of a detailed construction management plan that will include timings of traffic movements. However, initial start-up of a site is where the greatest vehicle movements are with clearance and associated haulage. Vehicle movements then generally fall into a regular pattern. When the traffic regularises on the Chettiscombe Land it could potentially double that associated with the Waddeton Park site, but there will be a time delay between the two sites given their relative position in the planning process. Given, the anticipated completion of the full A361 road junction by September 2018, the greatest impact of the proposed change will be on the amenity of Blundell's School, pedestrians crossing the road and the general amenity of Blundell's Road. However, DCC could accept this level of development without the A361 junction, as without it, Chettiscombe Trust are unlikely to sign the S106 and DCC would not get any funding for the A361 junction.
- 4.4.8 A report to Scrutiny Committee on the 23 May 2016 indicated that until the Council can demonstrate a 5 year land supply (with 20% buffer) there will be

vulnerability to housing applications coming forward on sites that have not been planned for development. This is often dubbed 'planning by appeal'. Appeal losses can result in an unbalanced distribution of piecemeal development, development in areas considered unsuitable by the Council, reduced levels of funding towards affordable housing / community facilities and service infrastructure and additional costs to be borne by the Council. Decision making is also taken out of local control. When a local planning authority does not have a 5 year land supply, houses can be legitimately provided by developers on sites not planned for until supply figures are next tested and a new Local Plan is adopted. Allowing development to come forward on the Chettiscombe Trust land in a considered and controlled manner provides clear benefits towards accelerating delivery on the planned housing allocation at the EUE.

- 4.4.9 It is therefore recommended to allow development to commence on this site, up to and including the occupation of 270 dwellings, prior to the completion of the full A361 road junction. As an alternative (in traffic generation terms), it is proposed to allow flexibility in the condition to provide some employment floorspace on land north of Blundell's Road. The condition has been drafted to allow for either a limited number of dwellings or the equivalent amount of employment floorspace. No greater amount of employment floorspace is allowed on land to the north of Blundell's Road before the full A361 junction. Amended wording to Condition 10 is proposed:

10. 'Either no more than 270 dwellings may be occupied on site or no employment floorspace over and above the amount (sq metres) equivalent to the occupation of 270 dwellings (equivalent in terms of traffic generation numbers) may be occupied on land to the north of Blundell's Road until the construction and opening for public use of the full A361 road junction and the linking road to Blundell's Road granted under permission 14/01168/MFUL (or as amended by a subsequent planning permission for this highway infrastructure)'.

REASON: To ensure delivery of the full A361 road junction whilst ensuring adequate on site facilities are available for all traffic attracted to the site up to the specified amount of residential or employment development in the interest of the safety of all users of the adjoining public highway and to protect the amenities of the adjoining residents and area in accordance with policy in National Planning Policy Framework'.

- 4.4.10 The proposed amendments to Condition 10 would still require the full junction to be completed prior to the occupation of the 600th dwelling of the entire EUE as required by the Adopted Masterplan.

4.4.11 In the event that 270 dwellings can be occupied prior to the completion of the full A361 road junction, amendments to the draft condition 11 would be required. The current draft condition 11 does not allow any residential development on land south of Blundell's Road and/or on the employment land until the roundabout at the junction with Blundell's Road with the linking road to the A361 junction has been constructed and is open to the public. It is noted that the link road between the new junction and Blundell's Road is proposed to be delivered as part of the DCC led scheme for the full A361 road junction and the roundabout is proposed to be delivered by the developer(s) associated with the Chettiscombe Trust land. Under the existing draft condition no employment development can be developed without the roundabout having been constructed, even if the A361 junction and link road are in place. In order to facilitate the delivery of development that will trigger contributions towards the full A361 road junction it is proposed that reference to the employment land is deleted from the draft Condition 11. As revised, this would allow employment development without the need for the roundabout. This is acceptable to the Highway Authority. The following wording is proposed:

11. 'No residential development hereby approved shall take place on land to the south of Blundell's Road until the roundabout at the junction of Blundell's Road with the link road hereby approved under permission 14/01168/MFUL (or as amended by a subsequent planning permission for this highway infrastructure) has been constructed and made available for use'.

REASON: To minimise the impact of the development on the highway network in accordance with policy in National Planning Policy Framework'.

4.2 Affordable Housing.

4.2.1 The Committee resolution to Application 14/00881/MOUT resolved that the S106 would provide 22.5% affordable housing on site for occupation on an affordable rent basis:

(i) 22.5% affordable housing on site to be provided for occupation on an affordable rent basis.

4.2.2 The Draft S106 seeks a tenure mix of 60% affordable rent and 40% intermediate units. This proposed split of housing tenure complies with the MDDC Supplementary Planning Guidance on affordable housing delivery. Confirmation received from our Housing and Property Services (02.12.16) indicates support for such a change. Housing Services indicate further that the intermediate units may be either shared ownership or 80% discount market housing. A change to the Committee resolution is therefore sought to allow a change to the mix in affordable housing tenure to 60% affordable rent units

and 40% intermediate units. The committee resolution to be amended as follows:

Contact for more Information: Christie McCombe, Area Planning Officer (Tiverton Eastern Urban Extension) 01884 234277
cmccombe@middevon.gov.uk

List of Background Papers: Cabinet 17th April 2014 (Masterplan SPD)
Cabinet 7th April 2016 (Draft Design Guide)
Application 14/00667/MFUL Construction of a 'left in left out' (LILO) road junction.
Application 14/01168/MFUL Construction of a full A361 road junction
The adopted policies relating to the Tiverton Eastern Urban Extension may be viewed in the AIDPD at
<https://new.middevon.gov.uk/residents/planning-policy/mid-devon-local-plan/part-2-aidpd/>

Circulation of the Report: Members of Planning Committee

Application No. 14/01332/MOUT

Agenda Item 12

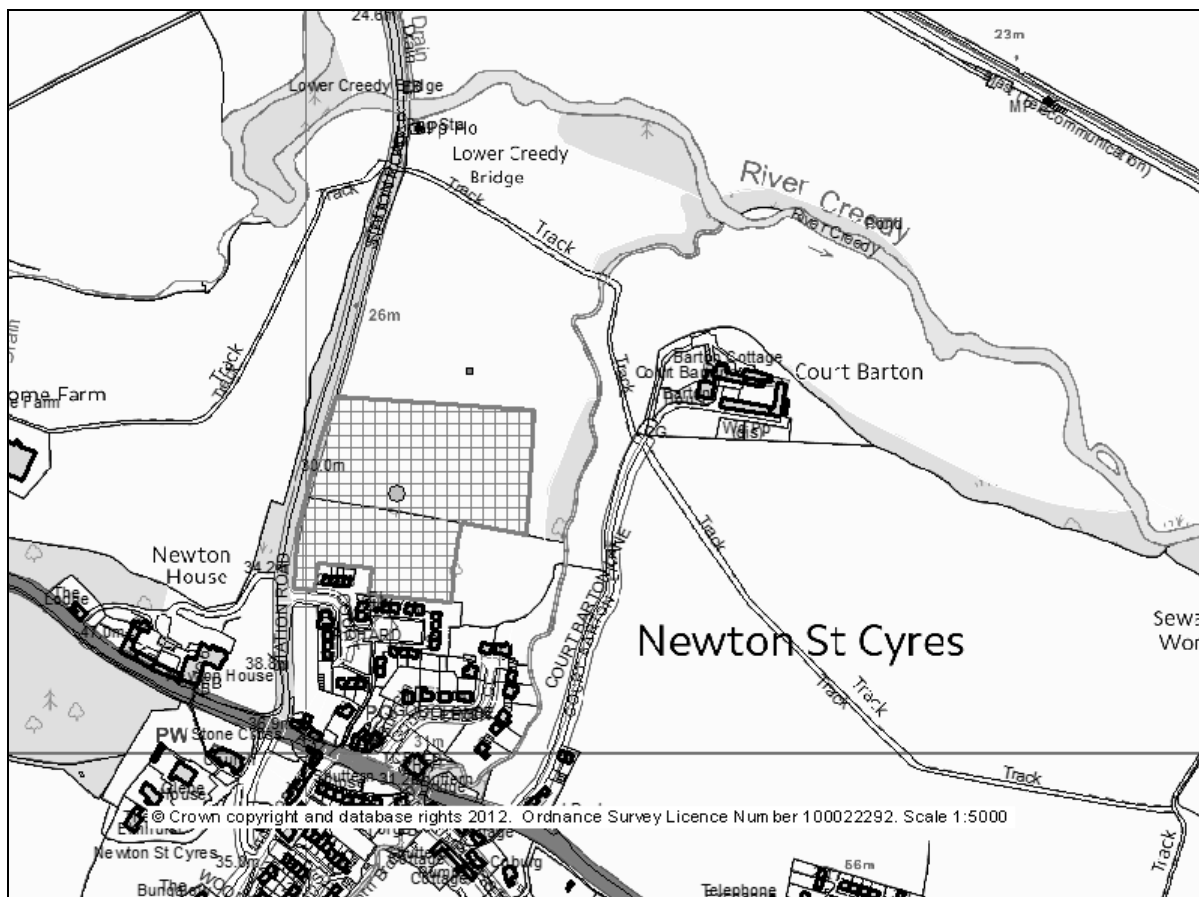
Grid Ref: 98337 : 288144

Applicant: Mr J Quicke

Location: Land at NGR 288080 098230 East of Station Road Newton St Cyres Devon

Proposal: Outline for a mixed use development comprising of a primary school and pre-school with ancillary facilities including sports pitch and parking and turning area; erection of up to 25 dwellings with parking and open space

Date Valid: 5th August 2014



REPORT OF THE HEAD OF PLANNING AND REGENERATION

14/01332/MOUT - OUTLINE FOR A MIXED USE DEVELOPMENT COMPRISING OF A PRIMARY SCHOOL AND PRE-SCHOOL WITH ANCILLARY FACILITIES INCLUDING SPORTS PITCH AND PARKING AND TURNING AREA; ERECTION OF UP TO 25 DWELLINGS WITH PARKING AND OPEN SPACE - LAND AT NGR 288080 098230 EAST OF STATION ROAD NEWTON ST CYRES DEVON

Reason for Report:

The approved scheme of development established by the outline planning consent permission was granted subject to a number of planning conditions. Of particular relevance to this report are conditions 6 and 10 as set out below:

6. The commencement of development of the new school building and associated facilities or the new housing hereby approved shall not be commenced until:
 - a) The access road has been laid out, kerbed, drained and constructed up to base course level for the first 20.00 metres back from its junction with the public highway
 - b) The ironwork has been set to base course level and the visibility splays required by this permission laid out
 - c) The footway on the public highway frontage required by this permission has been constructed up to base course level
 - d) A site compound and car park have been constructed to the written satisfaction of the Local Planning Authority

10. No development shall take place on site until the off-site highway works for the provision of a junction improvement scheme, at the junction of Station Road and the A377, inclusive of but not limited to road widening, signing and lining, and the enhancement of pedestrian crossing facilities has been approved in writing by the Local Planning Authority and has been constructed and made available for use.

Since the outline consent was granted work has been going on in the background by the landowners team and your officers have been engaged in pre-application discussions on the reserved matters details for both the new school and the new housing. As a result there are matters in relation to condition 6 and 10 that require further consideration by the Planning Committee.

RECOMMENDATION(S)

1. **Confirm agreement in principle (subject to the submission and resolution of a formal application – section 73A) that conditions 6 and 10 are amended so that they are not a pre-commencement conditions, with the trigger for the completion of the works covered by each condition set as.**

6. The first occupation of either the new school building and associated facilities or the new housing shall not take place until the following works have been completed.

a) The access road has been laid out, kerbed, drained and constructed up to base course level for the first 20.00 metres back from its junction with the public highway

b) The ironwork has been set to base course level and the visibility splays required by this permission laid out

c) The footway on the public highway frontage required by this permission has been constructed up to base course level

10. The first occupation of either the new school building and associated facilities or the new housing shall not take place until until the off-site highway works for the provision of a junction improvement scheme, at the junction of Station Road and the A377, inclusive of but not limited to road widening, Signing and lining, and the enhancement of pedestrian crossing facilities has been approved in writing by the Local planning Authority and has been constructed and made available for use.

2. Confirm agreement to the managed one way scheme at the junction of the A377 and Station Road which is now proposed to satisfy condition 10

Relationship to Corporate Plan: To ensure the delivery of key plans for Mid Devon including improving community facilities, better homes, empowering local communities and caring for the environment.

Financial Implications: None specific for MDDC, but with timing for the delivery of the off-site works as set by the conditions as currently drafted the current delivery programme for the new school would not be achieved which could threaten the availability of the funding package that is currently in place.

Legal Implications: To update the previous committee resolution to ensure compliance and avoid risk of legal challenge.

Risk Assessment: The risks are set out above and in the main body of the report.

Consultation carried out with:

1. Devon County Council – Highway Authority. Refer to email sent on 07/07 to case officer as set out:

The application offered two scenarios for the road improvements, one with the priority system, and one with the full widening. The preferred option for the Highway Authority would be the full widening. The owner of the third party land had indicated he would be willing to sell the land and so there is a presumption that the full widening can be achieved in planning terms.

The applicant, I am led to believe approached the third party land owner who would only accept "Key" ransom value for the land. The applicant approached the Highway Authority about reverting to the priority scheme, and was advised that if it passed independent Safety Audit, the Highway Authority would not be able to insist on the full widening. The applicant undertook to appoint an independent Auditor who identified the forward visibility and recommended a white line hatching as mitigation. Such a hatching is included in the design

attached to the section 106 agreement with Devon County Council and the Highway Authority would not be able to support a recommendation of refusal as it complies to the audit recommendations and would be unreasonable in an appeal situation.

It should be noted that the independent nature of the auditor is paramount to their business and their integrity would not be compromised by who commissioned the report. Indeed in this particular instance one of the Auditors was a former County Safety Auditor with considerable experience.

Therefore while the plan does not provide the desired full widening, It would not be reasonable to refuse the application given the transport statements and the independent Audit. However should the applicant negotiate the delivery of the widening subsequent to the planning approval of the priority the highway Authority would be happy to receive such a proposal.

The independent Auditor will carry out a stage 2 audit at detail design stage, a stage 3 audit at completion on site, and a stage 4 audit 12 months after being brought into use and any recommendations at each stage will need to be taken into account.

2. Education Funding Agency - Priority School Building Programme (PSPB) Capital Team. Refer to email sent on 12/07 to case officer as set out:

Further to our conversation yesterday please note that on behalf of Elliot's the contractor for the New School at St Cyres we are requesting a formal variation to the conditions as outlined in the Outline Planning Consent (Reserved Matters). We request that all pre start conditions associated with the school are varied to become a condition of the School occupation i.e. school open. The justification is that the off-site works being delivered by a third party pursuant to the outline consent, are unlikely to progress in sufficient time to enable the EFA to meet the delivery programme for the new school.

1.0 Implications of revising the wording of conditions 6 and 10.

- 1.1 Notwithstanding if the Committee indicate a favourable response to this issue, the applicant(s) would need to submit a formal application. However as stated above in the response from EFA, the timescales for delivery of the off- site works as currently required would prejudice the delivery of the new school as in order to meet the projected opening date, as the works on site will need to commence in quarter 4 of 2016. At the time of writing given the design work phase/ Section 278 process (agreement with the Highway Authority to complete works on the highway) remain ongoing, the off-site highway works as required by condition 6 and 10 will not be completed in time to enable an on-site start in quarter 4 of 2016.
- 1.2 The alternative wording as drafted in the recommendation section of this report will enable the commencement of development of both the school and new houses, but does not enable occupation of first use until the agreed offsite highway works have been delivered.
- 1.3 Your officers consider that this revision to the timing of the delivery of the works required under condition 6 and 10 (as now revised) will still ensure that adequate on site facilities are available for all traffic attracted to the site during the operational phase and to protect the interests of the safety of all users of the adjoining public highway and to protect the amenities of the adjoining residents.
- 1.4 Members will note that the proposed revision to condition 6 does not apply to the site compound and car park. (criteria d) These aspects, and other works, are required to manage the impact of the construction phase and can still be adequately controlled

and managed under the terms of Condition 8 which requires a construction management plan to be submitted as follows:

No development shall take place until a Construction Management Scheme has been submitted to and approved in writing by the County Planning Authority. The statement shall provide details of:

- a) Timetable/programme of works
- b) Measures for traffic management [including routing of vehicles to and from the site, details of the number/frequency and sizes of vehicles]
- c) Days and hours of construction and deliveries
- d) Location of loading, unloading and storage of plant and materials
- e) Location of contractor compound and facilities
- f) Provision of boundary fencing/hoarding
- g) Parking of vehicles of site personnel, operatives and visitors.
- h) Wheel washing
- i) Dust control

The development shall be implemented in accordance with the approved scheme.

At the time of writing this report the precise details of the Construction Management plan have not been submitted for approval, but the scope of details to be agreed is comprehensive with criterion B providing flexibility to secure off site initiative in terms of temporary requirements during the construction phase.

- 1.5 Conditions 9 and 14 of the outline planning permission are also drafted as pre-commencement conditions but these conditions relate to Sustainable Urban Drainage (SUDs) details and archaeological monitoring. It is not considered that there is any flexibility in amending the wording of these conditions given the reasons for imposing them.

2..0 Implications of confirming agreement to the managed one way scheme at the junction of the A377 and Station Road which is now proposed to satisfy condition 10.

- 2.1 Members considered the application for the outline application at the Planning Committee meeting on 22 October 2014, and the relevant extracts from the committee report regards the scope of the off-site highway works at the are set out as below (2.1.2 and 2.1.3) The comments reflect the details submitted on drawing 4058 B which is an approved drawing pursuant to the outline planning permission.
Please refer to Appendix A.

2.1.2 The applicant has indicated in their transport assessment that the junction of Station Road with A377 will run at under capacity and the figures identified would confirm this, however, the Highway Authority has a concern in terms of Highway Safety and forward visibility through the left turn from the A377 into Station Road onto the narrow section of the road. The Highway Authority would wish to see a highway improvement to overcome this concern. In addition when approaching the junction from the West the eye is drawn passed the junction to the highway network further to the east, in particular the junction with West Town Road and signage for the village hall/public car park. A scheme to highlight the junction should also be provided.

- 2.1.3 The Highway Authority is minded to recommend conditions on the application, but would seek an amendment to the application to allow further discussion and negotiation with third party land owners by the applicant to **facilitate the full highway scheme** and with this in mind would consider it appropriate for the access arrangements to be considered as part of the reserved matters application and

withdrawn from this application. Alternatively a Grampian Style condition requiring the applicant to submit for written approval and the delivery of a highway junction improvement to the satisfaction of the Local Planning Authority could be imposed.

- 2.2 As part of preliminary design work for the junction works, representatives for the land owner and Highway Authority have established an agreeable scope of works, reflecting on land availability issues and which is different to the scheme indicated on the appendix A plan. This revised scheme is shown on drawing 4058 Rev D (**attached as Appendix B**) as attached at Appendix B. The detail on this plan shows a traffic management arrangement, a widened highway corridor, improvements to visibility splay to the east and additional signage to assist with movements onto and off the highway. As stated above the Highway Authority have confirmed that this revised scope of works is acceptable in terms of managing the impact of the development on the safety and operation of the highway network. These works will be completed as part of the delivery of the project, in addition to improvements to the pedestrian crossing facilities across the A377 that have recently been completed by DCC.
- 2.3 On this basis although a formal submission to discharge the terms of condition 10 has not been made to MDDC, taking into account the comments from the Highway Authority the scheme of works as shown on drawing 4058 Rev D, would satisfy the requirements of Condition 10 in terms of highway safety and capacity considerations.
- 2.4 A number of local residents in Newton St Cyres have contact your officers to confirm that they do not agree that a managed one way system could be acceptable to satisfy the requirements of condition 10, given that the Committee resolved to grant outline planning permission subject to the details as shown on drawing 4058 Rev B (**Appendix A**), and on the comments from Highway Authority as set out in the Committee report (copied at 2.1.2 and 2.1.3 above). Therefore it is suggested that the Committee's decision to grant planning permission would have been on the basis of a two way system being delivered at the junction and not a managed one way system. Furthermore it is alleged that no meaningful discussions have been undertaken regards securing the additional land (currently in private ownership) that would be required to deliver a two way scheme. (refer to appendix A).
- 2.5 With regards to this latter point an agent working for the developers team has advised that early discussions regards securing the additional land have taken place but have not been successful. This is because in order to release it, the current owner has been advised by his land agent that the value should be based on a share of the uplifted value of it given the scope of the planning permission and not based on a compensation level reflective of loss in value plus costs. On this basis the developer's agent advises that this approach would put the whole project at risk from a viability and delivery point of view.
- 2.6 Notwithstanding the comments as referred to at 2.4- 2.5 above, taking into account the advice of the Highway Authority, regarding the acceptability of the proposed managed one way scheme and other works shown on drawing 4058 Rev D (**Appendix B**) in highway safety and capacity terms, it is not considered by your officers that there would be any policy reasons not to support it, and or conclude that it is not development plan policy compliant (COR 9, DM25, DM14).
- 2.7 If Members agree with the officer recommendation on this issue regarding the acceptability of the managed on way system, then when the section 73a application is made to vary the conditions of the outline consent (key issue 1) then a further revision to condition 10 is recommended as set out below:

2.8 The first occupation of either the new school building and associated facilities or the new housing shall not take place until the off-site highway works for the provision of a junction improvement scheme, at the junction of Station Road and the A377 as shown on drawing number 4058 rev D hereby approved have been constructed and made available for use.

Contact for any more information

Simon Trafford
01884 234369

Background Papers

1401332/MOUT

File Reference

Circulation of the Report

Cllrs Richard Chesterton
Cllr Peter Hare Scott.

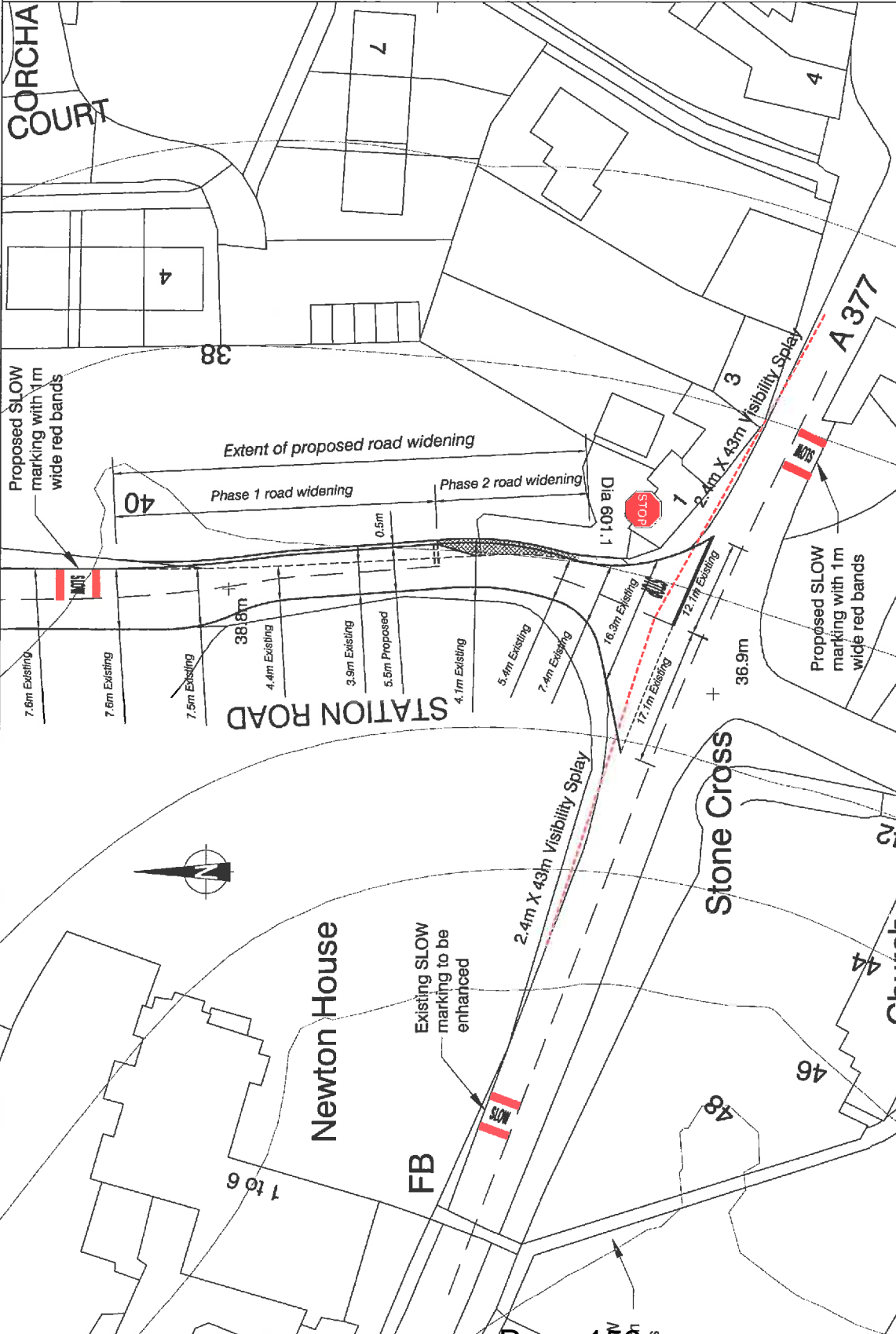
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APPENDIX A

Proposed Road Widening
Road to be widened to 5.5m with additional 0.5m hardstrip in two phases.

Phase 1
Existing embankment to be cut back and retaining wall realigned accordingly.

Phase 2
Works subject to agreement with third party. Existing retaining wall realigned to suite proposed road widening.



NEWTON ST CYRES
STATION ROAD
A377 JUNCTION

FIGURE 01

REVISION	
B	26.09.14 Road widening scheme
A	24.07.14 First Issue
REV	DATE
	DETAILS
DRAWING NUMBER	
4058	
REVISION	
B	

1st FLOOR UNIT 3 SILVERDOWN OFFICE PARK
FAIR OAK CLOSE CLYST HONITON, EXETER, EX5 2UX
TEL: 01392 363 812 FAX: 01392 363 805
Web: www.pcltransportplanning.co.uk

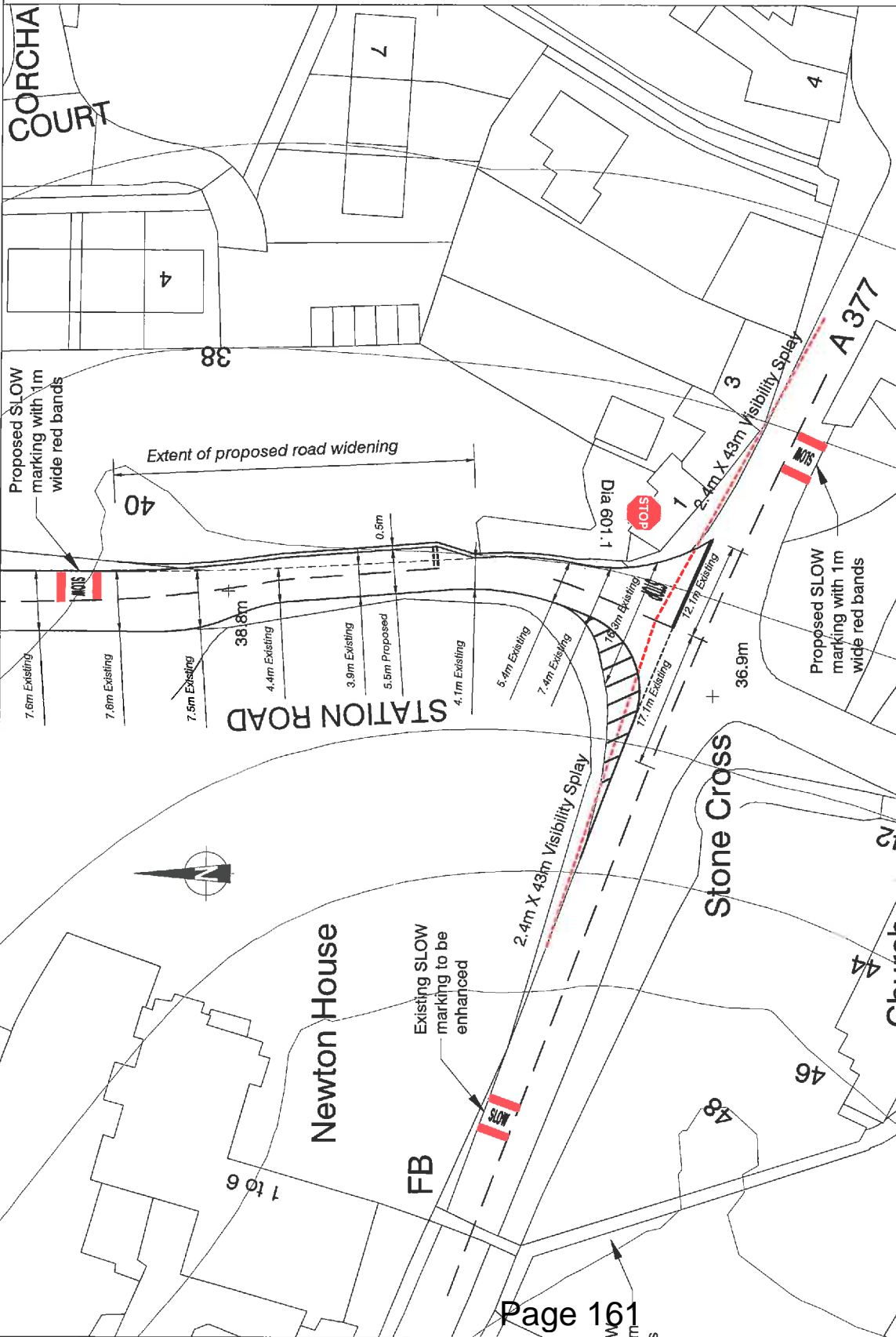


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Appendix B

Proposed Road Widening
 Road to be widened to 5.5m with additional 0.5m hardstrip.
 Existing embankment to be cut back and retaining wall realigned accordingly.



REVISION

C	16.07.15	Left hand radius reduced using white lining
B	26.09.14	Road widening scheme
D	20.01.16	Extent of Works Amended
REV	DATE	DETAILS
DRAWING NUMBER		REVISION
4058		D

**NEWTON ST CYRES
 STATION ROAD
 A377 JUNCTION**

FIGURE 01

Scale 1/500 @ A3

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