

Public Document Pack

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

MID DEVON DISTRICT COUNCIL

PLANNING COMMITTEE

A MEETING of the PLANNING COMMITTEE will be held in the Phoenix Chamber, Phoenix House, Tiverton on Wednesday, 17 May 2017 at 2.15 pm

The next ordinary meeting of the Committee will take place on Wednesday, 14 June 2017 at 2.15 pm in the Phoenix Chamber, Phoenix House, Tiverton

STEPHEN WALFORD

Chief Executive
9 May 2017

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

A G E N D A

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

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

To elect a Chairman for the municipal year.

2 **ELECTION OF VICE CHAIRMAN**

To elect a Vice Chairman for the municipal year.

3 **APOLOGIES AND SUBSTITUTE MEMBERS**

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

4 **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.

- 5 **MINUTES OF THE PREVIOUS MEETING** *(Pages 5 - 18)*
To receive the minutes of the previous meeting (attached).
- 6 **CHAIRMAN'S ANNOUNCEMENTS**
To receive any announcements the Chairman may wish to make.
- 7 **DEFERRALS FROM THE PLANS LIST**
To report any items appearing in the Plans List which have been deferred.
- 8 **THE PLANS LIST** *(Pages 19 - 78)*
To consider the planning applications contained in the list.
- 9 **MAJOR APPLICATIONS WITH NO DECISION** *(Pages 79 - 80)*
List attached for consideration of major applications and potential site visits.
- 10 **APPEAL DECISIONS** *(Pages 81 - 82)*
To receive for information a list of recent appeal decisions.
- 11 **APPLICATION 17/00001/TPO - TREE PRESERVATION ORDER FOR AN AREA OF TREES - 1 SYCAMORE, 1 ELM, 1 OAK, 1 HOLLY, 1 HAZEL - TRACK AT NGR 296538 103662 (GREENSLINCH LANE), SILVERTON.** *(Pages 83 - 86)*
To receive a report of the Head of Planning and Regeneration regarding the above application.
- 12 **COMMITTEE DECISIONS 2016/17 NOT IN ACCORDANCE WITH OFFICER RECOMMENDATION** *(Pages 87 - 90)*
To receive a report from the Head of Planning and Regeneration providing information where the Planning Committee has made decisions not in agreement with officer recommendation.
- 13 **APPEAL PERFORMANCE** *(Pages 91 - 114)*
To receive a report from the Head of Planning and Regeneration providing information on the outcome of planning appeals for the financial year 16/17.
- 14 **START TIMES OF MEETINGS**
To consider the start times of meetings for the municipal year 2017/18.

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 19 April 2017 at 2.15 pm

Present Councillors

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

Also Present Councillor(s)

D R Coren, Mrs J Roach and N A Way

Present Officers:

Jenny Clifford (Head of Planning and Regeneration), Tina Maryan (Area Planning Officer), Simon Trafford (Area Planning Officer), Lucy Hodgson (Area Planning Officer), Paul Dadson (Conservation Officer) and Sarah Lees (Member Services Officer)

162 **APOLOGIES AND SUBSTITUTE MEMBERS**

There were no apologies for absence.

163 **PUBLIC QUESTION TIME (00:01:18)**

Ken Warren spoke in relation to item 11 on the agenda, Dulings Farm, Coplestone, and asked the following questions:

1. Could the planning officer confirm what consideration has been made to excessive growth of Coplestone in recent years and the cumulative effect, when Coplestone was highlighted as needing 30 houses in the current local plan, and today will decide on 40 for the old Abattoir site and 60 for the Dulings site?
2. Could you confirm that this site is not included in the recently submitted Local Plan, is outside of the village boundary and despite being put forward and considered on numerous occasions in the past, has never been accepted as a sustainable site for housing?

Helen Olsson, also speaking in relation to Dulings Farm asked the following:

1. Why did the developer, once again, not seek community consultation before submitting this duplicate application, despite there being evident flaws, errors and huge public concern with the previous application?

2. Hasn't the developer submitted exactly the same Flood Risk Assessment, which still does not satisfactorily demonstrate that surface water can be controlled and discharged to the Salix Stream channel without resulting in unacceptable flood risk downstream, which was a key reason for your rejection of the last application?

Again, in relation to Dulings Farm, Alice Fraser asked:

1. Could the officer please explain in more detail how a large HGV turning into Elston Lane from the A377 and meeting a tractor or lorry coming down Elston Lane, could safely manoeuvre around the proposed new junction without being forced to reverse onto the A377? Particularly when the 'realignment' of Elston Lane means that the junction onto the lane from the A377 will be narrower, sharper and without passing place, than it is currently.
2. Could the Planning Officer please explain what is the difference in this application compared to the one discussed in January – particularly on sustainability, cumulative impact, neighbourhood consultation and flooding, which may cause the committee members to reach a different decision?

The Chairman indicated that the questions would be dealt with when item 11 was discussed.

164 **MINUTES OF THE PREVIOUS MEETING (00:05:50)**

Subject to an amendment to Minute 158 Notes (ii) removing reference to Cllr R L Stanley and replacing with Cllr C R Slade, the minutes of the meeting held on 29 March were approved as a correct record and signed by the Chairman.

165 **CHAIRMAN'S ANNOUNCEMENTS (00:07:20)**

The Chairman had no announcements to make.

166 **ENFORCEMENT LIST (00:09:03)**

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/17/00066/LB – Listed building in a poor state of repair – Manor House Hotel, Fore Street, Cullompton.***)

The Head of Planning and Regeneration outlined the contents of the report by way of photographs showing water ingress and failing render on the outside of the building. Discussions had been ongoing with the owner and scaffolding erected for the protection of the public. She explained the previous enforcement history of the site.

Consideration was given to the continued deterioration of the building and its impact, the various other buildings owned by the same person within Cullompton was noted with concern also being expressed over their condition.

RESOLVED that the Legal Services Manager be given delegated authority to take any appropriate legal action including the service of a notice or notices seeking the repair and redecoration of the exterior of the listed building. In addition, in the event of a failure to comply with any notice served to authorise prosecution and/or direct action.

(Proposed Cllr Mrs H Bainbridge and seconded by Cllr R J Dolley)

Notes:

- (i) Councillor R J Dolley declared a personal interest as he knew the owner of the property;
- (ii) Cllr Iain Emmett from Cullompton Town Council spoke.

167 DEFERRALS FROM THE PLANS LIST (00:20:38)

There were no deferrals from the Plans List.

168 THE PLANS LIST (00:20:45)

The Committee considered the applications in the plans list *.

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

- (a) No 6 on the Plans List ***(17/00323/FULL– Erection of 3 dwellings (revised scheme) – land at NGR 296643 113493 – adjacent to 37 Beech Road, Tiverton).***

RESOLVED that planning permission be granted subject to conditions as recommended by the Head of Planning and Regeneration and payment of a financial contribution of £2,700 towards the provision of public open space.

(Proposed by the Chairman)

Notes:

- (i) Cllr R L Stanley declared a personal interest as the Cabinet Member for Housing and indicated that he wished to abstain from voting;
- (ii) Cllr Mrs F J Colthorpe declared a personal interest as the County Councillor for the area.

- (b) No 1 on the Plans List ***(16/001888/MOUT – Outline for the erection of up to 40 dwellings, formation of 64 space car park to service Coplestone Railway Station, public open space, vehicular access from Shambles Drive, pedestrian links and associated infrastructure – Land at NGR 276566 103177 (Old Abattoir Site (Shambles Drive), Coplestone.)***

The Area Planning Officer outlined the contents of the report by way of presentation showing photographs of the site in question which included the frontage arrangements on to the A377, views back towards the existing site and looking back towards the main village of Copplestone. Panoramic views across the site were also shown. The officer explained that pre-application discussions had taken place and a summary of the key issues was given. The requirement to provide 24% affordable housing was also confirmed.

Revised conditions on the update sheet were explained.

Consideration was given as to:

- The formula used by Devon County Council to allocate school places. It was explained that Devon County Council used a standard formula that was applied consistently across the whole of Devon.
- How the affordable housing percentage had been calculated.
- The provision of car parking spaces to serve the station being welcomed.
- Development would bring a much needed 'tidying up' of the site.

RESOLVED that planning permission be granted subject to conditions and the prior signing of the provision of a Section 106 Agreement to secure:

1. The delivery of 24 % affordable housing on-site, and the submission of an affordable housing delivery plan shall be submitted to and approved in writing by the local planning authority in advance of any reserved matters applications being submitted for formal consideration. The reserved matters submissions will be required to reflect the terms of the approved delivery plan.
2. A combined primary school and early years education contribution of £146,520.00 to be used to provide facilities within the Copplestone catchment area.
3. A secondary school contribution of £15,960.00 towards school transport to Queen Elizabeth's Academy Trust.
4. Specification for car park and transfer arrangements.

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

Notes:

- (i) Cllrs P J Heal and Cllr D R Coren made declarations in accordance with the Protocol of Good Practice for Councillors in dealing with Planning matters as they were Ward Members and had been involved in discussions regarding the application. They also knew the landowner.
- (ii) Cllr R L Stanley requested that his vote against the decision be recorded.
- (iii) The following late information was reported:

Comments received 10th April 2017 - The development of the old abattoir site has been expected for some time, whilst I oppose any further development in our village the extra car parking proposed near Copplestone Railway Station will ease some of the congestion in the area. If we must have further development the use of an old industrial site is much preferred to the loss of valuable agricultural land.

I will support the application if it will stop any further major development in the village.

1. Edit to point 1 of Section 106 recommendation (page 3) as follows:

Affordable Housing: To ensure the delivery of 24 % affordable housing on-site, and the submission of an affordable housing delivery plan shall be submitted to and approved in writing by the local planning authority in advance of any reserved matters applications being submitted for formal consideration. The reserved matters submissions will be required to reflect the terms of the approved delivery plan.

Officer comment: This is to reflect the fact the application has been submitted in outline.

2. Remove clause 4 from the section 106 recommendation (page 3) as set out below, to be replaced with the following two conditions with appropriate reasons as set out below in bold.

3. **Specification for layout of and ongoing maintenance provisions for the formal open space area and sustainable urban drainage scheme (SUDs).**

The details required to be submitted pursuant to condition 1 in terms of the landscaping details shall show not less than 1680 square metres of useable public open space, of which not less than 400 square metres shall be laid out as an informal play area. The approved details for all the public open space across the site shall be implemented in accordance with a phasing plan to be submitted to and approved by the local planning authority in writing prior to the construction of any dwellings on the site. The approved details shall be maintained as such thereafter.

Reason: To safeguard the character and amenities of the area in accordance with Policies DM2 and DM14 of Local Plan Part 3 (Development Management Policies).

The management and maintenance arrangements for all areas of open space across the site shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the construction of any dwellings on the site. The approved management and maintenance arrangements shall be implemented in accordance with the agreed arrangements at all times thereafter.

Reason: To safeguard the character and amenities of the area in accordance with Policies DM2 and DM14 of Local Plan Part 3 (Development Management Policies).

Officer Comments: This is a better way of controlling the delivery and maintenance of the open space aspects with the SUDs elements already controlled by conditions 10 and 11 as set out in the report.

Page 5: One further representation in support of the application has been received since the report was written.

(c) No 2 on the Plans List (**16/001898/MARM – Reserved matters in respect of appearance, landscaping, layout and scale following outline approval 14/00830/MOUT – land at NGR 284242 99827 (Wellparks) Exeter Road, Crediton**)

The Area Planning Officer outlined the contents of the report highlighting by way of presentation the topography of the site making reference to its size and the sloping nature. Improvements to pedestrian links and the footway to the A377 were explained. There had been considerable pre-application consultation and the previous concerns of the Committee had been taken into consideration. The range of materials proposed to be used was also described which were now much more traditional in style. The boundary treatments proposed were described which included a Devon hedge bank to protect adjacent farm buildings which had been a concern raised by Historic England and the Mid Devon Conservation Officer.

Photographs were shown illustrating various proposed elevations and site sections.

Consideration was given to:

- The enforcement measures needed to ensure the garages were used for car parking spaces only.
- It was felt that the revised mix of affordable housing types and tenure would be a benefit to the people of Crediton.

RESOLVED that planning permission be granted subject to conditions as recommended by the Head of Planning and Regeneration and:

- a deed of variation to the terms of the Section 106 agreement be agreed to allow for a revised mix in terms of affordable housing types and tenure from 97.5% affordable rent and 2.5% shared ownership to 50% affordable rent and 50% shared ownership and to include the following mix in terms of unit sizes.
- a revised mix in terms of units sizes of the affordable dwellings be agreed as follows: 6 one bed flats, 29 two bedroom houses, 14 three bedroom houses and 1 four bedroom house (total of 50).

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

Notes:

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

made declarations in accordance with the Protocol of good practice for Councillors dealing in planning matters as they had all received correspondence regarding the application.

(ii) Mr Daniel Stephenson from Devonshire Homes spoke.

(iii) The following late information was reported:

Page 17: Amended plans were submitted and which are date stamped 27th March 2017 to reflect the proposed car parking arrangements as set out on drawing 0065 Rev.C

Officer Comments: It is the scope of the car parking provision as proposed on this plan that has been assessed and reported in the Report pack. No further comment and/or assessment required.

(d) No 3 on the Plans List (***17/00106/MOUT – Erection of 16 dwellings with access and associated works – land at NGR 306965 113252 (North of Belle Vue), Ashley Road, Uffculme***)

The Area Planning Officer outlined the contents of the report highlighting by way of presentation and photographs the site layout and proposals to provide terraced, semi-detached and detached properties. A scheme to minimise noise from the quarry was proposed.

Consideration was given to the site being outside the defined settlement boundary. However it was felt that the benefits of the scheme were considered to weigh in favour of approval in accordance with the National Planning Policy Framework as a whole.

RESOLVED that planning permission be granted subject to conditions as recommended by the Head of Planning and Regeneration and the prior signing of a Section 106 Agreement to secure:

1. 35% affordable housing (4 affordable dwellings on site);
2. Financial contributions towards primary and secondary education totalling £107,218;
3. A financial contribution towards provision of new multi-play, toddler and flat seat swings at Pathfields Play Area, Uffculme of £19,280.

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

Note: Mr Russell Williams, the agent, spoke.

(e) No 4 on the Plans List (***17/00217/FULL – Erection of a polytunnels and field shelter – land at NGR 310932 109654 (The Shippens) Blackborough***).

The Area Planning Officer outlined the contents of the report highlighting by way of presentation the site in question, explaining that it was an area of agricultural land in an isolated position near Blackborough in the Blackdown Hills Area of Outstanding

Natural Beauty. The elevations and floor plan were shown as well as the proposed poly tunnel and field shed.

Consideration was given to:

- The benefits afforded to the existing residents with learning difficulties by engaging in these sorts of activities.
- The adult play equipment had not been authorised.
- The fruit and vegetables to be grown in the proposed poly tunnel would be consumed by the people living on site and would not be sold for commercial reasons.
- The need for a decision in relation to both the poly tunnel and field shed to be determined together and not separately.
- Whether an existing building on the site could be used to store camping equipment etc.
- The need for sensitivity in relation to this application.

RESOLVED that the application be deferred to allow officers to undertake further discussions with the applicant in order to discuss alternative storage solutions in lieu of the proposed storage building and for officers to enter into discussions in relation to the currently unauthorised play equipment and looking at alternative locations.

(Proposed by Cllr P J Heal and seconded by Cllr B A Moore)

Notes:

- (i) Mrs Jacqueline Hill, the applicant, spoke.
- (ii) The following late information was reported:

18th April 2017

Additional supporting information in the form of an email of support dated 13th April 2017 received by Mrs Hill from Dr Caroline Smith who is a psychiatrist working with the local Learning Disability Intensive Assessment and Treatment Team at Devon Partnership NHS Trust. The email sets out Dr Smiths support for the proposed facilities to be provided under this application (field shed and polytunnel) which would support the resident's mental and physical health.

(f) No 5 on the Plans List **(17/00318/FULL – Permanent retention of log cabin (caravan) – land at NGR 295221 103171 – (The Orchard), Great Pitt, Silverton).**

The Area Planning Officer outlined the contents of the report highlighting by way of presentation the application site and history. It was explained that the proposal to grant temporary permission for a period of three years would allow the applicant's business to establish a firmer footing. The accounts were showing promise and were not far from achieving what they needed to be successful.

Consideration was given to:

- The length of time it typically took to establish a successful business.

- Equestrian people often living in caravans.
- The need to be fair and reasonable but to make it clear that there could be no further extensions of temporary permission without evidence that the business was proving to be a success.
- Two years would allow for much clearer audited accounts.

RESOLVED that temporary planning permission be granted for a period of 2 years subject to conditions as recommended by the Head of Planning and Regeneration with the exception of Condition 1 to be amended to 2 years.

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

Note: Cllr Mrs J Roach spoke as Ward Member.

169 **THE DELEGATED LIST (02:19:02)**

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

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

170 **MAJOR APPLICATIONS WITH NO DECISION (02:19:23)**

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

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

171 **14/00604/MFUL - PROPOSED DELETION OF PLANNING CONDITIONS 12, 16, 17, 18, 19 UNDER PLANNING APPLICATION 14/00604/MFUL FOR 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 (02:20:55)**

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

The Area Planning Officer outlined the contents of the report stating that a S106 agreement had been signed and its content had resulted in condition 12 no longer being required. Also, following the issuing of a ministerial statement in March 2015 some planning policy requirements/development standards had been removed resulting in fewer planning conditions required. It was now proposed to delete planning conditions 12, 16, 17, 18 and 19.

RESOLVED that planning permission be granted subject to the signed S106 and a revised set of conditions as recommended by the Head of Planning and Regeneration.

(Proposed by the Chairman)

Notes-

- (i) Cllr D J Knowles declared a personal interest as he had had a lot to do with the area and previous planning application.
- (ii) *Report previously circulated copy attached to minutes.

172 APPLICATION 17/00136/MOUT - OUTLINE FOR THE ERECTION OF UP TO 60 DWELLINGS AND MEANS OF ACCESS (REVISED SCHEME) - LAND AND BUILDINGS AT NGR 277550 102582 (EAST OF DULINGS FARM) COPPLESTONE (02:26:57)

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

The Area Planning Officer outlined the contents of the report stating that this was a new planning application following refusal of an earlier application. Five reasons had previously been given for this refusal. An appeal had been lodged by the applicant and a statement of case would need to be supplied by the local planning authority by the end of the week.

Aerial photographs were shown illustrating various boundaries and the location of the school in relation to the footpath and the community playing fields. A close up of the new junction arrangements was also provided.

In discussing the previous 5 reasons for refusal the officer explained that reason number 4 and 5 would be difficult to defend without any objection from the relevant statutory consultee and as such were not deemed to be as robust a pair of reasons as previously discussed, however, arguments could be made to continue to justify refusal of this application on reasons 1, 2 and 3.

In answer to the questions raised during Public Question Time it was stated that the Local Plan Review had established the Council's position with regard to the growth of Coplestone. It was confirmed that the site was outside the current settlement limit. He could not comment on why the developer had not sought community consultation before submitting this revised application but confirmed that they had not. He also confirmed that the same suite of documents had been submitted including the Flood Risk Assessment. He further confirmed that there were new proposed junction arrangements and showed the tracking plan that had been submitted and again reiterated the fact that Devon County's Highways Authority had endorsed these new junction arrangements. He confirmed that there were no significant difference between this and the previous application.

Consideration was given to:

- The way in which school places are allocated by Devon County Council.
- Resulting traffic problems if the application was approved.
- The lack of any change between the previous application and the new one.
- The site being outside the settlement limit.

RESOLVED that planning permission be further refused based upon the following reasons:

1. The application site is outside the current settlement limit boundaries of the village of Coplestone and is in the open countryside. Policy COR18 of the adopted Mid Devon Core Strategy (Local Plan Part 1) seeks to strictly control development outside settlement limits and a development in this location of the scale as proposed would not be permitted under criteria a - f of this adopted policy. Neither is the site proposed to be allocated for housing within the Councils Local Plan Review 2013 -2033. The applicant asserts that the Local Planning Authority cannot demonstrate that it has an adequate five year supply of housing land as required by the National Planning Policy Framework, and therefore Policy COR18 should be afforded limited weight and that the application should be determined against the provisions of Paragraph 14 of the National Planning Policy Framework. When tested against Paragraph 14 of the Framework the Local Planning Authority consider that the adverse impacts of the proposed development would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework as a whole as well as being contrary to Policy COR1 of the Mid Devon Core Strategy (Local Plan Part 1) and Policy DM1 of the Mid Devon Local Plan Part 3 (Development Management Policies).
2. The Local Planning Authority consider that the proposed unplanned development individually, and cumulatively together with the proposed development within the Local Plan Review for the village, would be out of scale with the size of the settlement of Coplestone to the detriment of its character and the general amenities of the village. For this reason the development would fail to meet the sustainable development principles required to be met by the National Planning Policy Framework and Policy COR1 of the Mid Devon Core Strategy (Local Plan Part 1) and Policy DM1 of the Mid Devon Local Plan Part 3 (Development Management Policies).
3. The Local Planning Authority consider that the application proposal has not satisfactorily demonstrated that surface water from the development can be satisfactorily controlled and discharged to the Salix Stream channel without resulting in unacceptable flood risk downstream of the application site to the detriment of the amenities of the locality where there are already records of flooding concerns. On this basis the application is considered to be contrary to Policies COR1 and COR11 of the Mid Devon Core Strategy (Local Plan Part 1) and Policies DM1 and DM2 of the Mid Devon Local Plan Part 3 (Development Management Policies).

(Proposed by Cllr B A Moore and seconded by Cllr P J Heal)

Notes-:

- (i) Cllrs D R Coren, P J Heal and N A Way made declarations in accordance with the Protocol of Good Practice for Councillors in dealing with Planning matters as they had all received correspondence regarding the application and had attended parish council meetings where the matter had been discussed.

- (ii) Cllr R L Stanley declared a personal interest in that he had had prior involvement with the application and left the meeting for the duration of the discussion thereon.
- (iii) Helen Olsson, objector, spoke.
- (iv) Stuart Penny, Chairman of Copplestone Parish Council, spoke.
- (v) Cllr D R Coren spoke as Ward Member.
- (vi) Cllr N A Way spoke as County Councillor for the area.
- (vii) *Report previously circulated copy attached to minutes.

173 **APPLICATION 16/01362/FULL - CONVERSION OF 5 REDUNDANT AGRICULTURAL BUILDINGS TO 5 DWELLINGS LAND AND BUILDINGS AT NGR 279371 101700 (SPENCECOMBE) CREDITON. (03:04:09)**

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

The Conservation Officer outlined the contents of the report stating that the officers recommendation for refusal was based upon design, over use of the space as well as structural concerns and standard requirements regarding unilateral agreements. The main issues related to whether the application complied with policies DM11 and DM27. Photographs were shown illustrating the elevations concerned and the layout of the interiors. A key issue for the planning authority was in weighing up the balance of harm to heritage assets versus public benefit. It was further explained that officers had tried to reach an amicable agreement with the applicant but had been unsuccessful.

Consideration was given to:

- A site visit which had recently taken place.
- What was perceived to be the inappropriate use of the barns for agricultural use today.
- Whether or not there was sufficient car parking on site.
- The sensitivity of future design.

RESOLVED that planning permission be granted for the conversion of 5 redundant agricultural buildings to 5 residential dwellings subject to securing a S106 Agreement for £7,210 for public open space and £22,170 towards air quality mitigation measure contributions and that delegated authority to be given to the Head of Planning and Regeneration to draft a set of conditions.

Reason: It was felt that it made appropriate use of buildings not suitable for modern agricultural needs and secured their future. It provided new residential accommodation. Five units were considered to be acceptable and that the scheme

did not detract from the setting of the listing building and the parking provision was also felt to be acceptable.

(Proposed by Cllr P J Heal and seconded by Cllr R J Dolley)

(Vote: 6 for, 5 against)

Notes-:

- (i) Cllr P J Heal declared a personal interest as he had been at the Parish Council meeting where the application had been discussed. He also knew the land owner.
- (ii) Cllr F W Letch declared a personal interest as he knew some members of the family.
- (iii) Keith Garside, the agent, spoke.
- (iv) Cllr P J Heal spoke as Ward Member.
- (v) Cllrs Mrs H Bainbridge, Mrs C Collis, J D Squire and R L Stanley requested that their vote against the decision be recorded.
- (vi) *Report previously circulated copy attached to minutes.

174 PROPOSED DELETION OF TREE PRESERVATION ORDER 06/00016/TPO AND REPLACEMENT WITH 11 SEPARATE TREE PRESERVATION ORDERS TO COVER THE SAME TREES AT HOWDEN COURT, AUBYNS WOOD AVENUE, LITTLE HOWDEN, HOWDEN HAYES, HOWDEN HOUSE, AUBYNS WOOD RISE AND UPPER HOWDEN, TIVERTON, DEVON (03:40:20)

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

The Head of Planning and Regeneration outlined the contents of the report stating the proposal was to delete a single Tree Preservation Order (TPO) covering the whole of the site and to replace it with 11 separate TPO's. This proposal represented good practice which was to put in place early protection but to then subsequently review that. An objection had been received; but that there was a process whereby the property owners would be formally notified and given opportunity to comment. If any objections were received a report would be brought before the committee.

Consideration was given to whether or not this would reduce the number of trees which were protected. It was confirmed that this was the case as the previous TPO covered the whole area and it was now proposed to rationalise protection through 11 separate orders having conducted a more detailed survey of the trees on the site.

Notes-:

- (i) Cllrs R J Dolley and D J Knowles declared personal interests as they knew some of the residents of Howden Court.

- (ii) Cllr R L Stanley declared a personal interest as he knew the person who owned Howden Court.
- (iii) *Report previously circulated copy attached to minutes.

175 **PLANNING PRODUCTIVITY REVIEW (03:44:33)**

The Committee had before it and **NOTED** a report * of the Head of Planning and Regeneration updating the Committee on the recent assessment of productivity in the Planning Service.

The Head of Planning and Regeneration outlined the contents of the report stating that officers were putting together a service improvement plan and enforcement vacancies within the service were currently being advertised. She highlighted the need for the Committee to consider the procedures in place for Planning Committee meetings and during discussion the following feedback was provided:

- Reports needed to be as succinct as possible.
- Information relating to consultations did not need to be so lengthy.
- More proof reading need to take place.

The following was **AGREED**:

- (i) The Head of Planning and Regeneration would contact Devon County Council to arrange for a briefing to Members in order to provide an understanding as to how school places were allocated locally or for a briefing paper to be circulated explaining this process.
- (ii) The Delegated List to not be included in the agenda pack from now on but to be circulated electronically to the Committee once a month.
- (iii) The Head of Planning and Regeneration would bring a report to the Committee, as per their wishes, proposing the expansion of her delegated powers in relation to enforcement.

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

(The meeting ended at 6.30 pm)

CHAIRMAN

PLANNING COMMITTEE AGENDA - 17th May 2017

Applications of a non-delegated nature

- | <u>Item No.</u> | Description |
|-----------------|---|
| 1. | <p>17/00033/OUT - Outline for the erection of 8 dwellings at Land and Buildings at NGR 301416 115145, Crosses Farm, Uplowman.</p> <p>RECOMMENDATION
Refuse permission.</p> |
| 2. | <p>17/00300/MOUT - Outline for the erection of 30 dwellings and new vehicular and pedestrian accesses at Land at NGR 305578 112053, Uffculme Road, Uffculme.</p> <p>RECOMMENDATION
Grant permission subject to conditions and the signing of a S106 agreement to secure.</p> |
| 3. | <p>17/00395/FULL - Erection of a barn to house flexible generation and energy storage plant with associated infrastructure, access, cable route and landscaping at Land and Building at NGR 280066 113155, (Woodford Farm), Witheridge.</p> <p>RECOMMENDATION
Refuse permission.</p> |
| 4. | <p>17/00407/FULL - Variation of conditions 5, 6, 15, 23, 27, 28, 31, 32, 34 and 35 to allow certain works to be undertaken before additional details are submitted to the Local Planning Authority, to phase the Construction Management Plan/s and to enable works to be carried out before the tree and hedgerow protection fencing is erected; and removal of conditions 24 and 26 (duplication of the requirements of other conditions) of planning permission 13/00947/MOUT at Land at NGR 305036 113872 (Junction 27), Sampford Peverell, Devon.</p> <p>RECOMMENDATION
Grant permission subject to conditions.</p> |

Application No. 17/00033/OUT

RECOMMENDATION

Refuse permission.

PROPOSED DEVELOPMENT

The proposal is an outline application for the erection of 8 dwellings on land to the west of Uplowman. Access is proposed to be in the form of a one-way system, the entrance being via an existing access to the north of the site and the exit via a private cul-de-sac to the south east of the site. Only the principle of the erection of 8 dwellings on the site and the access are to be determined under this outline application with layout, scale and appearance of the dwellings and landscaping of the site reserved for later consideration under a reserved matters application.

The site comprises approximately 0.8 hectares of agricultural pasture land with stables and agricultural building situated to the west of existing residential development. A track currently runs through the site from one access point to the other. Boundary treatments are a mix of post and rail fences, hedges and trees.

The existing stables and agricultural building on the site are to be removed.

There is residential development wrapping around the northern and eastern sides of the site, with garden and agricultural land retained within the same ownership to the south east and agricultural land to the south and west.

Foul drainage will be connected to the mains sewer. Surface water would be held in underground attenuation tanks and discharged into the nearby watercourse at no greater than existing greenfield rates. Paved areas would be permeable.

APPLICANT'S SUPPORTING INFORMATION

Design and access statement
Foul drainage assessment
Technical note re flood risk
Technical note re traffic
Ecology report
Planning statement

PLANNING HISTORY

80/00363/FULL - REFUSE date 11th July 1980 - Construction of agricultural access
01/01621/FULL - PERMIT date 1st February 2002 - Formation of access track for vehicular access to stables and pedestrian access (A-B) to rear of Bolt Engineering site
10/01063/FULL - WDN date 9th August 2010 - Erection of a multi-purpose agricultural building following demolition of existing
10/01290/FULL - REFUSE date 13th October 2010 - Erection of a multipurpose agricultural building following demolition of existing (Revised Scheme)
11/01822/FULL - PERMIT date 26th March 2012 - Erection of a multipurpose agricultural building after demolition of existing
13/00399/FULL - REFUSE date 8th May 2013 - Retention of a multi-purpose timber frame agricultural building
14/00387/FULL - REFUSE date 14th May 2014 - Retention of a multi-purpose timber frame agricultural building (Revised scheme) (APPEAL DISMISSED 29.04.15)

DEVELOPMENT PLAN POLICIES

Mid Devon Core Strategy (Local Plan 1)

COR1 - Sustainable Communities
COR2 - Local Distinctiveness
COR3 - Meeting Housing Needs
COR9 - Access
COR11 - Flooding
COR12 - Development Focus
COR12 - Development Focus
COR18 - Countryside

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

AL/DE/3 - Affordable Housing Site Target
AL/DE/4 - Occupation of Affordable Housing
AL/DE/5 - Inclusive Design and Layout
AL/IN/3 - Public Open Space

Mid Devon Local Plan Part 3 (Development Management Policies)

DM1 - Presumption in favour of sustainable development
DM2 - High quality design
DM8 - Parking

National Planning Policy Guidance
SPD meeting housing needs
SPD open space
SPD parking provision
SPD refuse storage

CONSULTATIONS

DEVON COUNTY EDUCATION - 26th January 2017 - NO OBJECTION

The proposed 8 family-type dwellings will generate 2 primary pupils and 1.2 secondary pupils.

There is currently capacity at the nearest primary. A contribution is required towards secondary school facilities of £26,305 and secondary school transport to Uffculme School of £6,669.

HIGHWAY AUTHORITY - 27th February 2017 - NO OBJECTION

The access to the north between The Meadow and Field View does not have sufficient visibility to allow two way traffic. The applicant has indicated a one way system which would remain private and would require the installation of appropriate control measures such as crocodile teeth to ensure one way working can be conditioned and installed.

While the visibility from the existing private cul-de-sac requires the exiting driver to view oncoming traffic over the neighbouring property to the south, this is an existing access. Consent was granted for the existing Crosses Farm development using the visibility provided by this access. The Planning Inspectorate has stated on other sites that it is unlikely visibility would be obstructed by neighbouring properties to the detriment of their own safety.

The Highway Authority considers that the visibility as existing is sufficient for the development.

ENVIRONMENTAL HEALTH - 23rd January 2017 NO OBJECTION

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 - I recommend approval with conditions:

No work shall be carried out on the site on any Sunday, Christmas Day or Bank Holiday or other than between the hours of 0730 and 1900 hours on Monday to Fridays and 0730 and 1300 on Saturdays.

Reason: To ensure that the proposed development does not prejudice the amenities of neighbouring properties.

Housing Standards - No comment

Licensing - No Comments

Food Hygiene - Not applicable

Private Water Supplies - Informative note

Health and Safety - no objections to this proposal

UPLOWMAN PARISH COUNCIL - 1st February 2017 - OBJECTION

Uplowman Parish Council opposes the application for the following reasons.

Uplowman Parish Council's long-standing policy, which was reconfirmed on 19th January 2017, is that there should be no new development in the village. The village has limited infrastructure, no significant public transport links and no local demand for housing has been identified. Therefore, Uplowman is not included among the rural settlements listed as suitable for limited development in Policy S13 of the MDDC Local Plan Review 2013-33.

Many public representations were heard at the meeting on 19th January. Petitioners drew attention to the current traffic hazards experienced at the sharp corner where the entrance to this development is proposed. UPC considers that those hazards will be increased by the additional traffic turning at this point. Neighbours note that the cul-de-sac through which vehicles leaving the development would exit is currently an unadopted private drive jointly owned by the four properties around the cul-de-sac. The technical note on traffic accompanying the application states erroneously that the village is subject to a 30mph restriction; councillors are concerned that other errors may also have crept into the advice given.

Concerns were also expressed that the South West Water sewerage is already at capacity and that installing an alternative private plant of this size and complex ownership is likely to lead to pollution entering the River Lowman.

Uplowman PC considers that permitting the proposed development at Crosses Farm would set a precedent that could result in similar developments at several other locations around Uplowman, contrary to the PC's 'no new development' policy. Uplowman PC considers that development on this scale is not required and, if granted, would significantly diminish the rural character of Uplowman village. The view of Uplowman PC is that the proposed development would adversely affect the village environment, impact negatively on immediate neighbours and presents access and drainage challenges.

HOUSING ENABLING & BUSINESS SUPPORT MANAGER - 16th January 2017 - NO COMMENTS

DEVELOPMENT SERVICES MANAGER (PROPERTY SERVICES) - 7th April 2017 - NO OBJECTION

I am content in principle from the surface water drainage information provided at this stage that application is acceptable in terms of flood risk.

HISTORIC ENVIRONMENT SERVICE - 30th January 2017 - NEUTRAL

The proposed development lies in an area where prehistoric activity is known. Groundworks associated with the construction of proposed development have the potential to expose and destroy archaeological and artefactual deposits associated with the known prehistoric activity in the vicinity. Any consent should carry a condition to secure a programme of archaeological works.

SOUTH WEST WATER - 27th January 2017 - NO OBJECTION

A connection to the public sewer for the disposal of foul drainage would be permitted.

REPRESENTATIONS

38 objections (including from CPRE) summarised as follows:

1. Beyond settlement boundary and not in any existing or emerging site allocations
2. Uplowman is not classed as a village and has no settlement boundary
3. Contrary to development plan; all previous applications have been refused
4. The site is a greenfield site and development would extend into the countryside
5. The development would change the community from a rural hamlet to a dormitory village
6. The development/density is not in keeping with the surrounding area
7. The development is out of scale and out of character compared with other individual or small group dwellings
8. The development is visible at various locations around the village
9. The site retains an agricultural appearance (apart from the overbearing farm building) and development of the fields would change the character of the area
10. Uplowman consists of houses that directly front onto the main country lanes and back onto countryside; the development would create an area of housing to the rear of existing dwellings that would be out of character with the area
11. The development will destroy extensive rural views/outlook from adjacent properties
12. The development will result in noise disturbance and pollution for existing residents through from cars entering day and night, very close to windows of existing dwellings
13. Two storey dwellings would lead to window to window overlooking
14. The dwellings would block sunlight to the gardens of existing dwellings
15. The surrounding houses would be devalued
16. There are no high trees on the boundary to screen the development
17. The development would significantly increase traffic problems in Uplowman; speed and levels of traffic through the village are increasing
18. Roads in Uplowman are already congested
19. There are no pavements or street lighting in the village and lanes into the village are narrow with points where two vehicles cannot pass; A 17% increase in traffic poses a significant risk to pedestrian safety
20. Access points are narrow and dangerous due to poor visibility and the speed of road users; the lower access is on a blind bend; visibility is limited by parked cars
21. Large vehicles fill the whole width of the road, particularly during harvest time; traffic using the entrance would cause a hazard
22. There is no 30mph speed limit in Uplowman
23. Safety is concern particularly for children walking to school; adding further vehicles will increase the problem
24. The southern access is inadequate and opens onto a busy road which is chaotic at school time when children catch the bus to Uffculme School
25. The road is also on a national cycle route and there will be additional dangers to cyclists
26. The traffic and access note incorrectly refers to commercial use on the site and there are not 8 parking spaces on the site
27. 50 vehicle movements per day from the site cannot be considered negligible
28. The plans do not show how safe access through the cul-de-sac could be achieved; parking in the cul-de-sac restricts access to the site
29. A one-way system could not be enforced
30. Pedestrians would be required to walk on the carriageway
31. Movement through the cul-de-sac would create a functional restriction of access to existing dwellings in contravention of legal rights of way - the road is not adopted and existing residents are responsible for maintenance
32. The site plan does not show the extent of the land required to access the public highway - the cul-de-sac is a private road
33. Visibility across the frontage of "Crosswinds" required under planning permission 03/01066/ARM is not within the control of the applicant and required visibilities cannot be met
34. The development sits just above the flood plain; during high rainfall events the river floods and comes close to existing properties; additional hard surfacing will result in more water flowing quickly into the river
35. The road has recently had to be closed due to high floodwaters

36. Development of the field will increase the risk of flooding for existing properties
37. Connection to a main sewer should be required; if treatment plant installed, more information is required to avoid pollution of the river
38. Increased housing will lead to further pollution of Uplowman Stream
39. The sewage system is full
40. Uplowman primary school is near capacity
41. There is no shop, very little public transport (one bus a week), no facilities for children or young adults, no doctor, Post Office has limited hours
42. The lack of bus services makes those who cannot drive feel stranded and isolated
43. Loss of hedges and fields would result in reduced habitat for many endangered species
44. Any development in the village should be low cost/affordable housing to allow young people to remain
45. The houses will all be too expensive for young families and not affordable
46. No pre-application discussions with the community
47. The DAS is very thin
48. There is no need for this housing as there are 300+ acres of development proposed for Tiverton; there is no proof that this development is required
49. The applicant has not complied with previous planning conditions on the land
50. There is no mention of S106, CIL or social housing
51. Approving the development would set a precedent for further development in the area
52. Policy states LPAs should avoid new homes in the countryside unless there are special circumstances to justify approval; rural housing should be limited to local need
53. Where will the parking be for The Beeches if land is used for the development?
54. There is known to be archaeological interest on the site
55. The indicative plans and DAS do not tie up in terms of house types
56. Support letters are from people outside the village
57. The application contains errors and is not well considered

47 supporting representations summarised as follows:

1. No flood risk, no comments from Environmental Health, Housing Options
2. Mid Devon has a lack of 5 year plan and the Government states that villages should have development
3. Electricity, clean water, sewage and surface water drainage all on site so no disturbance to residents (SWW has capacity for the development)
4. School welcomes more children into the village and children can walk to school
5. Highways accept the access and one-way system
6. No increase in traffic over previous engineering business
7. Negative comments on previous planning should be disregarded as none are connected with the site
8. Well thought out development with no impact on the community; houses will be sought after
9. Design shows thought given to space, landscaping and surrounding property
10. There is a lack of housing in the village with few coming up for sale
11. Young families are priced out of the market; more houses would help make villages affordable for younger home owners
12. The houses will be attractive for local people rather than second home owners who have priced local people out of the market
13. If the houses are high value, they will enhance the value of neighbouring houses
14. The village has a pub, church, school, post office and village hall offering clubs and sports
15. The village needs more families to support services
16. The development will allow people to move into the village that are unable to find a house
17. The site will not be visible from the roads into the village
18. Villages need to evolve not stagnate
19. The development will help meet Mid Devon's housing targets
20. Road access is good and the village is easily accessible
21. The development will support the local economy
22. Better to infill villages than build new towns on the countryside
23. Uplowman is suitable for sympathetic and well planned expansion
24. The development will improve the value of surrounding properties

25. Many of the objections are from residents that have benefited from modern development in the village

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The main issues in determining this application are:

- 1. Principle of development including 5 year housing land supply and sustainability**
- 2. Access**
- 3. Flood risk and drainage**
- 4. Indicative layout, including parking and potential effects on neighbouring residents**
- 5. Landscape, visual amenity, ecology, archaeology**
- 6. Section 106 including affordable housing, education and public open space and other financial considerations**
- 7. Other objections**
- 8. Benefits and comments in support**
- 9. Planning balance**

1. Principle of development including 5 year housing land supply and sustainability

Policy COR1 of the Mid Devon Core Strategy (LP1) seeks sustainable growth which enhances the self-sufficiency of communities and provides access to education, jobs and sustainable transport. It seeks to provide accessible forms of development that reduce the need to travel by car and are integrated with public transport and other sustainable modes of travel and allow for ease of movement.

Policy COR12 focuses development on the towns and states that other defined settlements should have only limited development to meet local needs and promote rural regeneration.

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. These villages are characterised by having some local facilities and employment and access to public transport. Outside defined settlements, policy COR18 seeks to control development to appropriate rural uses including affordable housing to meet local needs (which can be cross-subsidised by market housing where necessary in accordance with policy DM9 of the Local Plan 3 Development Management Policies).

The development is proposed on agricultural land in the countryside. The site is not allocated and is not being proposed for affordable housing. The proposal is therefore considered to be contrary to policies COR17 and COR18 of the Mid Devon Core Strategy.

However, Members will be aware that Mid Devon has been found not to be able to demonstrate a 5 year housing land supply. 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 plan 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 or specific policies in the NPPF indicate development should be restricted. Housing applications need therefore to be considered in the context of sustainable development, unless specific policies indicate development should be restricted. Policies COR17 and COR18 are directly relevant to the supply of housing in the District and are now considered to be out of date. This does not mean that Mid Devon's policies must be cast aside, but the weight given to them is proportionate to their consistency with the National Planning Policy Framework (NPPF).

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.

The NPPF states that to achieve sustainable development, economic, social and environmental gains should be sought jointly and simultaneously through the planning system. The planning system should play an active role in guiding development to sustainable solutions. 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 that are or can be made sustainable.

At paragraph 55, the NPPF states that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. For example, where there are groups of smaller settlements, development in one village may support services in a village nearby. Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances.

At paragraph 54, the NPPF states that in rural areas, local planning authorities should be responsive to local circumstances and plan housing development to reflect local needs, particularly for affordable housing, including through rural exception sites where appropriate.

Uplowman is not one of the defined villages listed in COR17 as it is not considered to have the facilities, employment and public transport required for day to day living. Uplowman has a primary school, pub and village hall. In addition it has a Post Office counter open Monday, Tuesday and Thursday mornings only and a bus once a week. Whilst development at Uplowman could potentially help support facilities in neighbouring villages, it is more likely that if residents have to drive to facilities anyway, they would drive to Tiverton which has a much wider range of services and facilities (5 km) rather than Sampford Peverell (1.8 km).

The status of Uplowman was reviewed for the emerging Local Plan Review (now submitted for examination) and it was concluded that Uplowman did not have the facilities to include it in the defined villages list and make it suitable for limited housing growth. Whilst Uplowman does have a primary school that would welcome new children, it does not have a shop or public transport service. These are the 3 essential services that the emerging Local Plan Review considers appropriate for a limited level of development.

The application does not propose 100% or cross-subsidised affordable housing to meet local needs and does not evidence a need locally for additional housing, for example in the form of a housing needs survey. Whilst new housing may provide some additional support to the remaining services within Uplowman, it is not considered to be of a level that would support the re-opening of a shop or the running of a more regular bus service. Uplowman Parish Council has stated that their long-standing policy is that there should be no new development in the village. The village has limited infrastructure, no significant public transport links and no local demand for housing has been identified.

An appeal for a single dwelling on nearby land was dismissed on 11th February 2016 (15/00979/OUT). The appeal Inspector stated that policies COR1 to COR12 of the Mid Devon Core Strategy embodied the principles of sustainable development set out in paragraphs 17, 30 and 37 of the NPPF that seek to manage patterns of growth so as to minimise journey lengths and make the fullest possible use of public transport, walking and cycling. The Inspector noted that the range of services within Uplowman is very limited, there being no shop and an infrequent bus service. He stated that accessibility to a wide range of services was poor and there would be a high dependency on the usage of the private car. The Inspector concluded that the proposal would not amount to sustainable development due to the extent it conflicts with other NPPF objectives. Although at the time, Mid Devon had not then been challenged on its 5 year housing land supply, the Inspector's comments with regard to the sustainability of Uplowman and the development's conflict with the objectives of the NPPF are still relevant.

Your officers do not consider that the proposed development would represent sustainable development contrary to policies in the Mid Devon Core Strategy and in the NPPF.

2. Access

Access to the site is to be determined under this outline application. There are two existing accesses to the site, one to the north between two residential properties and one to the east which joins an existing private road serving 3 dwellings. Concern has been raised with regard to the narrowness of the road, on street parking narrowing the road further, the speed and size of the vehicles using the road, congestion within the village and lack of visibility for vehicles exiting the site.

The Highway Authority considers that the access to the north between The Meadow and Field View does not have sufficient visibility to allow two-way traffic. The applicant has indicated a one-way system would be put in place which would remain a private road and would not be adopted. As the development is to remain private, the Highway Authority would require conditions to ensure the installation of appropriate control measures such as crocodile teeth to ensure the one-way system would operate as intended and management measures to ensure the road is maintained. These details would need to be conditioned if the application is approved.

While the visibility from the existing private cul-de-sac requires the exiting driver to view oncoming traffic over the drive to the neighbouring property to the south, this is an existing access and was included within the visibility splay for the cul-de-sac development even though it was outside the control of the applicant at the time. According to the Highway Authority, in appeal decisions with similar circumstances, the Planning Inspectorate has stated that it is unlikely that neighbouring properties would block visibility to the detriment of their own safety. In addition, should the neighbouring property seek to move the access now, such a change in location would require retention of adequate visibility splays to allay any safety concerns. For these reasons, the Highway Authority considers that the visibility as existing is sufficient for the proposed development.

The Highway Authority has raised no other concerns with the surrounding road network, congestion within the village or pedestrian, cycling or horse rider safety as a result of the development.

The proposal is considered to be in accordance with policy DM2 of the LP3 DMP in respect of a safe access being provided. However, the proposal would be contrary to policy COR9 of the Mid Devon Core Strategy which seeks to co-ordinate development and transport planning to improve accessibility and reduce the need to travel by car.

3. Flood risk and drainage

Concern has been raised with regard to the potential for the development to increase flood risk in the area. The site itself is outside Flood Zones 2 and 3 accordingly does not lie in an area considered to be at a higher risk of flooding. However, there is potential for the development to increase flood risk elsewhere if surface water drainage is not managed in an appropriate and adequate way.

Policy COR11 of the Mid Devon Core Strategy (LP1) seeks to guide development to the most sustainable locations with the lowest flood risk and to ensure development does not increase the risk of flooding elsewhere.

Policy DM2 of the Local Plan 3 Development Management Policies requires appropriate drainage including SUDS, and connection of foul drainage to a mains sewer where available.

The site lies within Flood Zone 1 (lowest flood risk) and is therefore considered suitable for residential development in flood risk terms. Concern has been raised that the surrounding roads flood in times of high rainfall and the development would exacerbate the problem. At times, the road has had to be closed due to high flood waters.

The Environment Agency does not require consultation for development within Flood Zone 1. For major development (10 dwellings or more), surface water drainage proposals would be assessed by Devon County Lead Local Flood Authority. For a proposal of the scale of this application, Mid Devon would need to assess the proposal. Mid Devon's Property Services has considered the surface water drainage proposals and, having discussed these with the Lead Local Flood Authority have confirmed that from the information

provided at this stage they are content in principle that application is acceptable in terms of flood risk. It would be necessary to condition that a detailed scheme for surface water drainage is provided to include percolation testing and greenfield run-off rates, details of existing and proposed ground levels, full details of the proposed system including the attenuation tanks and future maintenance of the scheme.

Consideration of surface water drainage proposals within a planning application is limited to whether the proposals are adequate for the site and whether they would be likely to increase surface water run-off from the site. There is no requirement for proposals to deal with existing flooding conditions off site, as long as the proposals do not increase flooding. Subject to detailed design, it is not considered that the development would increase flooding elsewhere.

A connection to the public sewer is available and it has been confirmed that a mains sewer connection will be provided. South West Water has confirmed that the public sewer network is capable of supporting the development and has capacity to accept the foul flows.

4. Indicative layout, including parking and potential effects on neighbouring residents

The submitted indicative plan shows 8 x 3, 4 and 5 bedroom houses arranged around a central one-way road and informal courtyard. There is sufficient space to provide 2 parking spaces per dwelling and adequate amenity space, including space for cycle and bin storage. As it is not intended to adopt the road, refuse collection points will be indicated at each access. Bins are currently collected from the grass verge at the beginning of the cul-de-sac and this will continue. A second bin collection point will be indicated at the northern access to the site. Whilst these arrangements are not ideal, as the road is to be a private road, there is no alternative to residents taking their bins to the collection point.

Policy DM8 of the LP3 DMP requires 1.7 parking spaces per dwelling to be provided on site and 4 cycle parking spaces per dwelling (3+ beds). The indicative plan demonstrates that this level of provision is achievable on site, subject to layout being confirmed at reserved matters stage.

Whilst the plan is indicative only, it demonstrates that 8 dwellings can be accommodated on the site without there being an unacceptable loss of privacy for amenity for neighbouring residents, subject to orientation and sufficient separation distances being provided between new and existing dwellings. The outlook from existing dwellings along the site boundary would change but this change in itself would not warrant refusal of the application. There is no requirement to preserve a private view in considering a planning application.

Concern was raised that the development would lead to noise disturbance and pollution for existing residents, particularly in the cul-de-sac private road that would act as the exit from the site. Your officers do not consider that the proposed increase in vehicle movements in the cul-de-sac private road would lead to an unacceptable impact on the living conditions of the existing residents.

5. Landscape, visual amenity, ecology, archaeology

Landscaping is a reserved matter. The application does not specify any landscaping, however, the site is fairly well enclosed within the landscape and your officers consider that landscaping could be addressed at the reserved matters stage, should the application be approved. The development is considered to be in accordance with policies COR2 of the Mid Devon Core Strategy (LP1) and DM2 of the LP3 DMP in this respect.

Concern was raised with regard to the character of the proposed development being out of keeping with the surrounding development and extending into the countryside. Whilst most of the existing housing fronts the road, there is some (limited) backland development. The site is not highly visible and where it is visible it would be seen in context with existing residential development.

The submitted ecological assessment confirms that no evidence of protected species was found on site and no further surveys are required. The development is not likely to harm protected species, particularly as the existing hedges and trees surrounding the site are to be retained.

Devon Historic Environment Service has recommended a condition be imposed on any planning permission

to ensure that archaeological investigation is carried out before the development is constructed. The development would be in accordance with policy DM27 of the LP3 DMP in this respect.

6. Section 106 including affordable housing, education and public open space and other financial considerations

Policy AL/DE/3 of the AIDPD which requires open market housing sites in rural areas of more than 2 dwellings to provide affordable housing at 35% of the number of dwellings by which the site exceeds the 2 dwelling threshold (8 - 2 x 35%), rounded down to the nearest whole. For this application, there would be a need to provide 2 affordable dwellings on the site.

However, the written ministerial statement of 28th November 2014 states that affordable housing should not be sought from development of 10 units or less or sites which have a maximum combined gross floorspace of no more than 1,000 square metres. For designated rural areas, a financial contribution towards affordable housing provision elsewhere should be sought for developments of between 6 and 10 dwellings, the contribution to be calculated in accordance with the Meeting Housing Needs SPD, policy MHN/9. The indicative plans show the floorspace of the proposed 8 dwellings to be in excess of 1,000 square metres. However, these are indicative plans and the floorspace could be either above or below the 1,000 square metre threshold once reserved matters are submitted. For this reason, it is recommended that, should an application be approved, the Section 106 Agreement provides for 2 affordable dwellings to be provided on site on the basis of the indicative floorspace. The Section 106 Agreement could include a provision that should the floorspace proposed at reserved matters stage fall below the 1,000 square metres threshold, a financial contribution is paid based on the provisions for calculation of such financial contribution set out in policy MHN/9 of the SPD.

Policy AL/DE/4 requires affordable housing to be limited to households in need of affordable housing and this would also be secured within the Section 106 Agreement. Policy AL/DE/5 seeks an inclusive design and layout for the affordable housing and this policy would be addressed at reserved matters stage.

No public open space is intended to be provided on site. Policy AL/IN/3 of the AIDPD and Mid Devon's SPD on open space seeks financial contributions towards play areas and open space facilities where no on site provision is made. Accordingly, the applicant has agreed to enter into a Section 106 Agreement to secure a financial contribution of £9,640 towards the improvement of sporting facilities at Crossways Playing Field, Uplowman.

Policy AL/IN/5 of the AIDPD provides that where new housing development will lead to education facilities being over-subscribed, the development will cover the cost of the additional facilities necessary. Devon County Council have requested an education contribution towards additional education infrastructure at the local secondary school of £26,305, plus a contribution of £6,669 towards secondary school transport costs due to the development being further than 2.25 miles from Uffculme School.

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). Assuming 8 market houses and completion in 2017/18 the award would be paid over a period 5 years, amounting to £41,120. If completion takes place in 2018/19, the period would be reduced to 4 years, amounting to £32,896. If 2 affordable dwellings are to be provided on site, the sums would be £55,120 and £44,096 respectively.

7. Other objections

Devaluation of existing property prices is not a material planning consideration.

Private rights of way are not a material planning consideration.

The applicant's compliance with previous planning conditions is not relevant to this application.

Objectors mention that there is no need for the development as there is a large development proposed at Tiverton Eastern Urban Extension. There is a need to address a lack of housing supply in the District and it will be a number of years before housing on the Tiverton Eastern Urban Extension starts to address the shortfall in housing need. The Government requires Local Planning Authorities to substantially boost the

supply of housing in their areas.

Concern was raised with regard to a lack of pre-application discussion with the community. Mid Devon's Statement of Community Involvement seeks to ensure promoters of major development proposals undertake public engagement. However this engagement process does not apply to non-major proposals (less than 10 dwellings). Whilst the Local Planning Authority would encourage applicants to discuss the proposals locally, there is no legal requirement to do so.

8. Benefits and comments in support

The proposal would provide 8 new dwellings on the site which is considered to carry significant weight in terms of meeting the Government's aim of increasing housing supply. Depending on the floorspace provided (see Section 6 above), the proposal would either provide 2 affordable dwellings on site, or a financial contribution towards the provision of affordable housing elsewhere. In addition, there would be financial contributions towards education and public open space to off-set the additional requirements for these facilities.

Supporters point out that the development would allow families to move into the village that are currently unable to do so due to a lack of housing in the village, and would support the existing facilities in the village (pub, school, church, Post Office), and ensure the village does not stagnate. They state that Uplowman is suitable for sympathetic expansion and the development would help meet Mid Devon's housing targets.

Other comments state that the site is well screened with services such as electricity, water and sewage already available or to be provided on site, the highway solution has been accepted, and the design is well thought out.

9. Planning balance

Mid Devon has been found not to be able to demonstrate a 5 year housing land supply and Mid Devon's policies on housing supply should therefore not be considered up to date. Paragraph 14 of the NPPF states that where development plan policies are considered to be out of date, planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the NPPF as a whole or specific policies in the NPPF indicate development should be restricted. The proposal would make a small contribution towards increasing housing supply in Mid Devon and significant weight must be given to this. In addition, the site is well screened, and highway safety, flood risk, archaeology and drainage concerns have all been addressed satisfactorily (subject to conditions). This also weighs in favour of the approval of the application, as do the financial contributions towards education facilities and play area provision, as well as the provision of 2 affordable dwellings on site (> 1,000 square metre floorspace) or a financial contribution towards off-site affordable housing (<1,000 square metres floorspace). The site is able to accommodate 8 dwellings with associated amenity space, vehicle parking, cycle parking and bin storage in a manner that would not significantly affect the living conditions of existing residents to an unacceptable degree.

However, Uplowman is not considered to be a sustainable settlement in that it lacks the day to day facilities that make it suitable for even limited housing growth, having only one of the three essential services that the existing Development Plan and emerging Local Plan Review consider appropriate for a limited level of development. Whilst Uplowman does have an education facility, it does not have a shop or public transport service (one bus a week). Accessibility to a wide range of services is poor and there would be a high dependency on the usage of the private car. In your officers' opinion, the proposal would not amount to sustainable development and therefore conflicts with the sustainability objectives of the NPPF. The harm caused by this conflict is considered to significantly and demonstrably outweigh the benefits.

The proposal is considered to be contrary to policies: COR1, COR9, COR12 and COR18 of the Mid Devon Core Strategy (LP1) and the sustainability objectives of the National Planning Policy Framework. Refusal is therefore recommended.

REASON FOR REFUSAL

1. The Local Planning Authority does not consider Uplowman to be a sustainable location for growth in that it lacks the day to day facilities that make it suitable for additional housing. Uplowman has only one of the three essential services that the Local Planning Authority considers necessary for even a limited level of new housing development. Whilst Uplowman does have an education facility, it does not have a shop or public transport service (one bus a week). Accessibility to a wide range of services is poor and there would be a high dependency on the usage of the private car. In the opinion of the Local Planning Authority, the proposal would not amount to sustainable development and therefore conflicts with the sustainability objectives of the NPPF. The harm caused by this conflict is considered to significantly and demonstrably outweigh the benefits of the development in providing new housing in the District.

The proposal is considered to be contrary to policies: COR1, COR9, COR12 and COR18 of the Mid Devon Core Strategy (LP1) and the sustainability objectives of the National Planning Policy Framework.

Application No. 17/00300/MOUT

Plans List No. 2

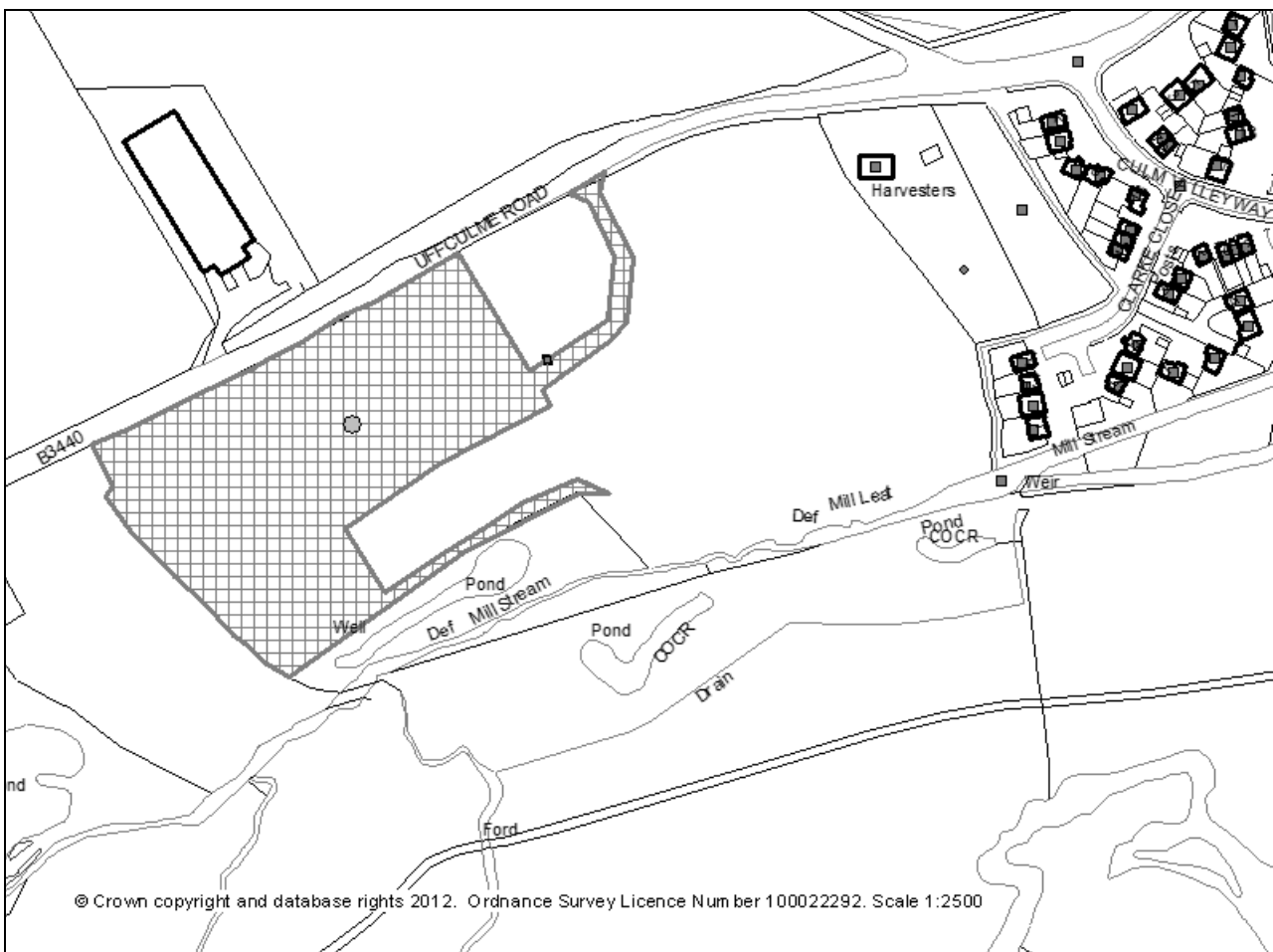
Grid Ref: 305658 : 112080

Applicant: R & L Persey Vegetables, C/O
Jillings Heynes Planning

Location: Land at NGR 305578 112053
Uffculme Road Uffculme Devon

Proposal: Outline for the erection of 30
dwellings and new vehicular and
pedestrian accesses

Date Valid: 23rd February 2017



Application No. 17/00300/MOUT

RECOMMENDATION

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

1. 35% affordable housing on-site
2. £102,390 toward improved primary education facilities ((£3,413 per dwelling)
3. £98,644 toward improved secondary education facilities (3,288.15 per dwelling)
4. £24,100 toward off-site public open space provision

PROPOSED DEVELOPMENT

This application seeks outline planning permission for the erection of 30 dwellings with new vehicular and pedestrian accesses on land to the east of Langlands Business Park and to the west of the village of Uffculme. Access is to be determined as part of this application with all other matters reserved for future consideration.

The application site is proposed to utilise the access granted planning permission at appeal in 2016 as part of a submission for the erection of 60 houses on land immediately to the east of the application site. This access is off the B3440 Uffculme Road which links the villages of Willand and Uffculme. The red line of the application site overlaps with the site for the 60 houses to allow for this access. (application 15/00108/MOUT).

The application site is outside of any defined settlement limits of a village or town and so is in the open countryside in planning terms. Furthermore, other than for the access, the site of this application does not form part of any current or proposed allocation for development in the Local Plan. The adjacent site for 60 dwellings is proposed to be residentially allocated for this number of dwellings within the submitted Local Plan Review. This proposed allocation has been included in the plan only as a result of the appeal decision granting planning permission.

The site falls in a southerly direction from a high point in the north east corner at approximately 78.5m AOD, to a low point located on the southern boundary at approximately 73.0m AOD. It is bound to the north and west by a tree and hedge belt, to the east by the remainder of the field which now has outline planning permission for 60 dwellings and to the south by vegetation and a stream.

APPLICANT'S SUPPORTING INFORMATION

Design and Access Statement
Flood Risk Assessment
Transport Statement
Ecological Appraisal
Arboricultural Survey
Carbon Reduction Statement
Waste Audit Statement
Geo-environmental Desk Study Report

PLANNING HISTORY

15/00108/MOUT Outline application for up to 60 dwellings with access onto Uffculme Road, with all other matters reserved - REFUSED (APPEAL ALLOWED WITH CONDITIONS 11.04.2016)

DEVELOPMENT PLAN POLICIES

Mid Devon Core Strategy (Local Plan 1)

COR1 - Sustainable Communities
COR2 - Local Distinctiveness
COR3 - Meeting Housing Needs
COR5 - Climate Change
COR8 - Infrastructure Provision
COR9 - Access
COR10 - Strategic Transport Networks
COR11 - Flooding
COR12 - Development Focus
COR17 - Villages
COR18 - Countryside

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

AL/DE/3 - Affordable Housing Site Target
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
DM3 - Sustainable design
DM4 - Waste management in major development
DM6 - Transport and air quality
DM27 - Development affecting heritage assets
DM28 - Green infrastructure in major development

Devon Waste Plan

W4 Waste Prevention

National Planning Policy Framework

CONSULTATIONS

WILLAND PARISH COUNCIL - 13th March 2017

Willand Parish Council discussed this at the meeting on 9 March and were concerned that they had not been directly consulted on this application as any approval will have more of an effect on Willand and Uffculme as opposed to Halberton.

It is recognised that approval has been given, on appeal, for 60 houses on an adjoining piece of land and that access to this application site will be through the approved site and so could be seen as a natural extension to it.

The Parish Council objects to the application for the following reasons:

- 1) The site is in open countryside and not in a settlement area where development could be justified.
- 2) The land is not allocated in any current local plan or emerging local plan for development of any description.
- 3) This is a major development for a rural area and will have an impact on the villages of Uffculme and Willand in respect to education, health and many other services. Although in Halberton Parish. it will not adversely impact on that parish.
- 4) The development will create additional vehicle movements, the majority of which will have to travel through Willand via the Four Cross Way roundabout, and most of the traffic will then move up the B3181 to Waterloo Cross. On the way, there are two junctions with accident records. Traffic on the B3181 is increasing with current and approved business developments and much of this increase consists of heavy goods vehicles.

5) The Waterloo Cross roundabout is becoming a 'pinch point' and concern as to this junction was raised by a Government Inspector in relation to the recent Devon Minerals plan which will increase traffic at this point. With possible additional development at Junction 27 of the motorway the current position will be further aggravated. If traffic were to travel towards Cullompton there are recorded concerns in relation to the area of Junction 28 of the M5.

Refusal of this additional housing is recommended

UFFCULME PARISH COUNCIL - 13th March 2017

The Parish Council objects to this application. The land lies outside the settlement boundary of the village. Permission would see a further ribbon development that would also further reduce the rural nature of the distinction between the villages of Uffculme and Willand. The land is also not included in the existing or emerging local plans as sites for development.

HIGHWAY AUTHORITY - No objection -

The site is located off an access previously agreed by the Highway Authority and the Highway Authority accept the application transport assessment. The Highway Authority considers that this site is unlikely to have an impact on Junction 28 and the existing severe queue lengths even though a proportion will wish to travel in that direction. The Applicants should consider the provision of footway links to the industrial estate at Langlands and the bus services and stops at that location. Therefore details of the pedestrian footway, access to the footway and its layout should be sought. A number of conditions are recommended.

ENVIRONMENT AGENCY - No objection -

Although the southern boundary of the site near the River Culm is within Flood Zone 3, where there is a high probability of flooding, the proposed residential units would all sit within Flood Zone 1 where the probability of flooding is low. LPA will need to apply the sequential test.

ENVIRONMENTAL HEALTH - ENVIRONMENTAL HEALTH - 1st March 2017

No objection

HALBERTON PARISH COUNCIL - 24th March 2017

Halberton Parish Council recommends Refusal of this application.

The proposed development site is located within a rural part of Halberton Parish, adjacent to our boundary with Uffculme Parish.

It was clear to the PC that this application is an extension of the application for 60 houses granted on appeal in April 2016, and the PC's objections are the same as those expressed in 2016.

Specifically:

1) This area of development is outside the settlement area and is not included within any planning document for the area.

Halberton PC has is of the opinion as is its neighbouring parishes that the road between Willand and Uffculme should remain a "Green Belt" of primarily agricultural land and no further "ribbon development" should be permitted.

2) Adding a further 30 properties (along with the 60 granted in 2016), in addition to the increased housing which is included within the revised local plan, will have a severe impact on the ability of local community services to meet the needs of the whole rural population.

3) At this time, Devon Highways has not commented on the proposal. Halberton PC's opinion is that the increased traffic flows at peak times onto the Willand-to-Uffculme road will significantly increase the risk of accidents involving not only HGV and passenger vehicles but also pedestrians, whether there be a pedestrian pavement or not. The 41 pages of commentary and 126 pages of appendices by the applicant related to transportation do nothing to change our opinion of that increased risk.

4) Halberton PC has also noted that the previous application which was granted on appeal, was granted on the grounds that development would start immediately, whereas other housing opportunities WITHIN the local plan might take longer to start.

However, twelve months after the 2016 decision was made, there is no evidence of any start to the construction of the 60 houses under that application, and we anticipate the same extended delay would happen, should this current application be approved.

It is recommended that MDDC should Refuse permission for this application.

LEAD LOCAL FLOOD AUTHORITY - No objection -

The applicant has submitted a suitable surface water drainage plan in the flood risk assessment (Awcock Ward Partnership Project Number: 0172) Additional information in relation to the surface water drainage aspects of the above planning application has been provided by Awcock Ward Partnership. Require pre-commencement conditions be imposed on any approved permission to secure an appropriate surface water drainage management system.

NATURAL ENGLAND - No objection -

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.

Natural England has published Standing Advice on protected species.

DEVON, CORNWALL & DORSET POLICE - Neutral -

I am unable to comment in any detail on the available 'illustrative feasibility layout', as it does not reveal any features that would specifically be of concern to the police.

DEVON COUNTY EDUCATION - No objection

We request an education contribution to mitigate the impact of development. The proposed 30 family-type dwellings will generate an additional 7.5 primary pupils and 4.5 secondary pupils. Both the local primary and secondary schools are forecast to be at capacity and therefore Devon County Council will seek a contribution towards provision of both primary and secondary school infrastructure. Our primary contribution request is £102,390 and the Secondary education contribution is £98,644.

MID DEVON DISTRICT COUNCIL - TREE OFFICER - No objection -

At this early stage I would suggest that the trees on this site will enhance a development in this area, providing the layout is considered correctly.

SOUTH WEST WATER - No objection -

A connection to the foul or public sewer should be made

REPRESENTATIONS

Two letters of objection received, summarised as follows:

1. Cumulative impact with neighbouring site for 60 houses will cause a serious loss of public visual amenity in respect of the view from the road across the fields to the Culm Valley;
2. Villages of Willand and Uffculme will lose their individuality as there will be almost continuous development on the south side of the road between the villages;
3. Site is on a flood plain;
4. The road is dangerous;
5. The additional traffic would spoil the village of Uffculme.

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The main considerations in the determination of this application are:

- 1. Adopted and emerging planning policy and five year land supply**
- 2. Highways considerations**
- 3. Considerations of location and scale and the character of the area**
- 4. Trees and ecology**
- 5. Drainage and flooding**
- 6. Infrastructure considerations**
- 7. Other matters**
- 8. Planning balance**

1. Adopted and emerging planning policy and five year land supply

Policy COR12 of the Core Strategy sets out the development focus for the District, concentrating development around the towns of Tiverton, Cullompton and Crediton with more limited development elsewhere. 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.

The development is on agricultural land and at present the entirety of the site lies outside the defined settlement limit for the village of Uffculme, to which the site is closest (although it lies in Halberton Parish). The proposal is therefore considered to be contrary to policies COR17 and COR18 of Mid Devon's adopted development plan. With regard to the Council's emerging policy, the strategy for development focus will be at Tiverton, Crediton and Cullompton as identified in policy S1.

Policy COR1 of the Mid Devon Core Strategy (LP1) seeks to manage growth in a sustainable way to support the diverse needs of communities, including the provision of affordable housing and making the most efficient use of land. Policy COR3 seeks to meet the diverse housing needs of the community, including a target provision of approximately 100 affordable dwellings per year across the District.

The Local Plan Review proposes to allocate land immediately to the east of the application site (including part of the red line of this site which relates to the point of access) for 60 dwellings as that site has already been granted planning permission on appeal (policy ref. UF1). That appeal decision in April 2016 found that the authority is unable to demonstrate that it has an adequate 5 year supply of housing land and it is on that basis that this site is now brought forward. The National Planning Policy Framework (the Framework) 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.

Although the Council has now submitted the Local Plan Review to the Planning Inspectorate for examination, at the time of writing the Plan is untested and cannot yet be construed as a demonstration of a five year supply of housing sites.

Paragraph 14 of the Framework, reiterated by policy DM1 of Local Plan Part 3, states that where development plan 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 Framework as a whole OR specific policies in the Framework indicate development should be restricted. Housing applications need therefore to be considered in the context of sustainable development, unless specific policies indicate development should be restricted.

Policies COR12, COR17 and COR18 are directly relevant to the supply of housing in the District and are now considered to be out of date. This does not mean that Mid Devon's policies must be cast aside, but the weight given to them is proportionate to their consistency with the Framework.

2. Highways considerations

The site is proposed to be accessed via a single point of vehicular access from the B3440 Uffculme Road; this point of access was approved as part of the planning permission for the 60 dwellings on the neighbouring site. The Highway Authority has indicated that it has no objection to the use of this access to serve the additional 30 dwellings but would like to see a pedestrian footway provided from the application site to Langlands Business Park to the west and the nearby bus stops which have been installed outside the Business Park. The applicant has amended the red line of the application site to include the land necessary to provide the footway and therefore its provision can be ensured through condition.

Concerns have been raised that the road from which this site is accessed is dangerous and reference is made to a fatal accident in the vicinity. This issue was also raised as part of the appeal at the neighbouring site but the Inspector found that there was no compelling evidence to demonstrate that the scheme for 60 houses would result in highway safety issues or congestion from increased traffic volumes. The additional traffic arising from a further 30 houses would not be significant and a similar conclusion is reached as part of this application.

Junction 28 of the M5 at Cullompton has been the subject of queue monitoring, which identifies significant queues of traffic in the am peak looking to reach the junction or pass over its bridge. These queues arise from the introduction of traffic signals at the junction which have reduced queue lengths of vehicles exiting the motorway, thus eliminating a previous highway safety concern but have exacerbated issues on the County network when combined with the poor operation of the roundabout serving the northbound on and off slips and the services. The queue monitoring has shown the junction to be over capacity at peak times in respect of the County network. The Highway Authority has indicated the additional traffic arising from the development is unlikely to have an impact upon this existing issue as although journey times to Junction 28 via either Junction 27 or the B3181 through Willand (without a queue) are the same at 8 minutes, once the additional time is factored in for the morning queues which would be experienced, the use of Junction 27 would be a more attractive option. On this basis they state that a reason for refusal based on increased impact through Junction 28 would be unsound.

In respect of highways considerations the application is in accordance with policies COR1, COR9 and COR10 of the Core Strategy and DM2 and DM6 of Local Plan Part 3 (DMP), which seek to deliver developments which have safe highway accesses and do not adversely affect the operation of the local or strategic network.

3. Considerations of location and scale and the character of the area

The appeal decision for the neighbouring site concluded that the wide range of facilities available in Uffculme (2 shops, 2 public houses, café, takeaway, GP surgery, community hall and fields, pre-school, primary school & secondary school) render the village better served than the other villages identified as settlements in the Core Strategy and that it was within an acceptable and safe walking distance of those services and facilities. Equally, the proximity to employment land is such that the location is readily accessible to some employment opportunities by sustainable means. Despite being located slightly further to the west than the appeal site, Officers are of the opinion that it would not be reasonable to reach a different conclusion in relation to the location of this site than that reached by the Inspector.

Although the site is situated to the west of Uffculme and would represent further linear or ribbon development to the south of the B3440, the Inspector in the appeal for the neighbouring site found that it would not materially close the gap between Willand and Uffculme and each would retain their individual identity. There is no reason to now reach a different conclusion in relation to this site and there would remain a sufficient gap between the two settlements, including areas of open field on both sides of the road so that they would retain their individual identities. In this respect, the objections raised by Parish Councils and objectors are not agreed.

The development of an additional 30 houses would represent a modest 3% increase in the number of households in the village and there is no evidence to suggest that such an increase would be adverse to the operation of the settlement and its community.

The site is within the Lowland Plains landscape character area as set out in the Mid Devon Landscape Character Assessment. This area is characterised by having an open, low lying flat agricultural landscape. The fields to the north of the B3340 are partially screened from views by the existing field boundaries. The application site is more enclosed than the neighbouring site for 60 houses by virtue of more established field boundaries and it is noted that the Inspector raised no issues with the impact of development of that site on the character of the area or with respect to visual amenity. Officers are of the opinion that a similar conclusion is reached in respect of this application site and the aim to sustain the quality, character and diversity of the environment are met as required by policy COR2 and DM2.

The registered historic park and garden at Bridwell Park lies approximately 215m to the north east, on the opposite side of Uffculme Road. Due to the intervening distance and existing vegetation it is not considered that the development will have a material impact upon the setting of the registered park and development would accord with policy DM27 in this regard.

4. Trees and ecology

A tree survey is submitted with the application that identifies all existing trees and hedges around the perimeter of the site will be retained. The authority's Tree Officer has visited the site and is of the opinion that these trees and hedges will enhance the development if the layout is carefully considered. There are some concerns regarding proximity of properties to the roadside trees as shown on the submitted feasibility layout but as layout is a reserved matter for later consideration, this could be adequately addressed through any reserved matters submission. The construction of the new footway to Langlands Business Park will necessitate the use of a no-dig method for some parts of the path where they would pass within the Root Protection Area of certain trees. Subject to the imposition of a condition to secure adequate details of a Tree Protection Plan and Method Statement for the construction phase, no objections arise to the development in relation to the impact upon existing trees and hedgerows.

Policy DM28 of Local Plan Part 3 relates to the provision of green infrastructure in major development and seeks to achieve a net gain in biodiversity. The submitted ecology survey makes a number of mitigation and enhancement recommendations, including the use of bat tubes and bird bricks on a number of new dwellings and the retention of the semi-improved grassland which is located close to the southern extremes of the site, outside the area identified for dwellings to be constructed on. Natural England have raised no objections to the application and a condition is recommended for imposition to require the submission of an ecological management plan with a reserved matters application.

5. Drainage and flooding

The majority of the site lies within Flood Zone 1 and is at the lowest risk of fluvial flooding; all new dwellings will be located in this area. A very small portion of the site lies within flood zone 3 and is at risk of flooding from the watercourse which runs to the south. This land would only be used for drainage purposes and would not accommodate dwellings or access or egress routes across it. The sequential test referred to by the Environment Agency in their consultation response seeks to direct development to areas at the lowest risk of flood by appraising what other land is available within the area at lower risk of flood. As none of the land within the application site which would accommodate built development is at risk of flooding and that the only other site proposed for allocation in the Local Plan Review is the neighbouring site for which planning permission exists, it is considered that the sequential test is passed and there is no other land at lower risk of flooding reasonably available for development in the area.

The submitted flood risk assessment includes a surface water drainage plan which Devon County Council as Lead Local Flood Authority have confirmed they have no in-principle objections to. Any approval of planning permission should include a condition requiring the submission of the detailed design of any management system and also an appropriate construction phase drainage management.

The site is proposed to be connected to the mains foul network.

Having regard to these matters the application meets with policies COR11 of the Core Strategy.

6. Infrastructure considerations

Policy COR8 of the Core Strategy sets out that the council will ensure that new development is served by necessary infrastructure and that developers will be expected to contribute to, or bear the full cost of, new or improved infrastructure and facilities where appropriate.

The site is above the affordable housing threshold and policy AL/DE/3 of the Allocations and Infrastructure DPD requires 35% affordable housing to be provided; this would equate to 10 dwellings on a site of this size. Subject to this requirement being included in a Section 106 agreement to ensure its provision and the later agreement of tenure and size split, this would accord with the policy requirements.

Devon County Council have indicated that both the local primary and secondary schools are forecast to be at capacity and on this basis they request a financial contribution toward increased facilities to accommodate for the increase in pupils as a result of this development. This contribution equates to £3,413 per dwelling for the primary education contribution and £3,288.15 per dwelling for the secondary education contribution. Such contributions would mitigate the impact upon education provision in the locality and meet with policy AL/IN/5 in this respect.

The development would give rise to an additional need for public open space provision and policy AL/IN/3 requires 60 square metres of equipped and landscaped public open space per dwelling. It is not considered that on-site provision is necessitated in this instance but a financial contribution toward improved provision off-site in the locality should be required through a Section 106 agreement. At the time of writing, a specific project/s for these monies to be spent on is being identified and an update will be provided.

7. Other matters

A Waste Audit Statement has been submitted to detail how waste produced during the construction phase will be disposed of. Although somewhat scant in nature, it is sufficient for the purposes of this application and accords with the requirements of policies DM4 of the Local Plan Part 3 and W4 of the Devon Waste Plan in this respect.

A Carbon Reduction Statement has been submitted which states the use of a fabric first approach to building construction in order to reduce energy consumption and CO2 emissions. Policies contained in the Local Plan requiring specific levels to be achieved are no longer valid by virtue of Ministerial Statements but the elements of policies COR5 and DM3 in relation to the demonstration of how sustainable design and construction methods will be incorporated is met.

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), New Homes Bonus is under review by the Government. If completion of the development takes place in 2018/19, payment would be made for 4 years, amounting to £137,360.

8. Planning balance

The Framework contains a presumption in favour of sustainable development and requires local authorities to boost significantly the supply of housing. The development would provide up to 20 open market and 10 affordable dwellings which would provide economic and social benefits for Uffculme.

The Framework requires that where Local Plan 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 Framework as a whole or specific policies in the Framework indicate development should be restricted.

The impacts on local schools and public open space provision can be off-set by financial contributions towards improvements. The visual effects of the development would depend very much on the designs submitted under a later reserved matters application and the final landscaping proposals however the site is not in a designated landscape and with the retention of existing tree and hedge screening, it is considered

that development would not cause demonstrable harm to the character and appearance of the area and would be read alongside the adjacent site for 60 dwellings which has the benefit of planning permission and the development of Culm Valley Way further to the east.

Weighing in favour of the development is the provision of 30 additional houses, including 35% affordable housing in a location adjacent to an existing settlement which is recognised as being sustainable for modest expansion.

In weighing up all material considerations, including those raised in consultation responses from Parish Councils and objectors, Officers are of the opinion that there are no adverse impacts arising from the development which would indicate that planning permission should be refused and therefore the application is recommended for approval by virtue of presumption in favour of sustainable development set out in paragraph 14 of the Framework being engaged. Members are asked to note that a similar planning balance for 60 dwellings on the adjacent site was undertaken by an appeal Inspector fairly recently resulting in the grant of planning permission. In light of this earlier decision it is not considered that a refusal of permission on this site could be substantiated.

CONDITIONS

1. Before any part of the development hereby permitted is begun, detailed drawings to an appropriate (scale) of the (layout), (scale) and appearance of the building(s), [the means of access thereto] and the [landscaping] of the site (hereinafter called the Reserved Matters) shall be submitted to and be approved in writing by the Local Planning Authority.
2. Application(s) for approval of 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 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. The detailed drawings required to be submitted by condition CO1 shall include the following additional information: boundary treatments, existing and proposed site levels, finished floor levels and materials, an ecological management plan based on the recommendations for ecological mitigation and enhancement contained in the submitted Ecological Appraisal by Ecological Surveys Ltd., dated August 2016.
5. The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice.
6. As part of the Reserved Matters submission/s referred to in condition 1, a Sustainable Urban Drainage Scheme and long term management and maintenance plan shall be submitted to the Local Planning Authority. The submitted details shall include a full drainage masterplan and associated drainage calculations also include a timetable for the implementation of the Sustainable Urban Drainage Scheme. The development shall be constructed and the Sustainable Urban Drainage Scheme provided, maintained and managed in accordance with the approved details submitted at Reserved Matters stage.
7. No development shall begin until a temporary surface water drainage management plan, to demonstrate how surface water runoff generated during the construction phase will be managed for the full construction period, has been submitted to and approved in writing by the Local Planning Authority. The plan must satisfactorily address both the rates and volumes, and quality, of the surface water runoff from the construction site and must also include details of how eroded sediment will be managed to prevent it from entering the permanent surface water drainage management system and include a timetable for the implementation of the management plan. Once approved the management plan shall be implemented in accordance with the approved details.

8. No development shall begin until an Arboricultural Method Statement and Tree Protection Plan, based on the submitted Arboricultural Survey dated February 2017 (including the supplementary TPP dated 21/04/2017) and to include engineering details for any areas of no-dig construction, has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in strict accordance with the approved details.
9. The proposed estate road, cycleways, 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.
10. The development hereby approved shall not be carried out otherwise than in accordance with a phasing programme which shall previously have been submitted to and approved by the Local Planning Authority in writing.
11. No other part of the development hereby approved shall 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
12. The occupation of any dwelling in an agreed phase of the development shall not take place until the following works have been carried out:
 - A) The spine road and 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 spine road and 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 spine road and cul-de-sac and footpaths has been erected and is operational;
 - E) The car parking and any other vehicular access facility required for the 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 spine road and cul-de-sac have been provided and erected.

13. None of the dwellings permitted shall be occupied until such time as a footway from the site to Langland's Business Park has been constructed and made available for use in accordance with design and construction details that shall first have been submitted to and approved in writing by the Local Planning Authority.

REASONS FOR CONDITIONS

1. The application was submitted as an outline application in accordance with the provisions of Articles 5 and 6 of The Town and Country Planning (Development Management Procedure) (England) Order 2015.
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 51 of the Planning and Compulsory Purchase Act 2004.
4. 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.
5. For the avoidance of doubt and in the interests of proper planning.
6. 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) and in accordance with guidance contained within the DEFRA document 'Non-statutory technical standards for sustainable drainage systems'.
7. To ensure that surface water runoff from the construction site is appropriately managed so as to not increase the flood risk, or pose water quality issues, to the surrounding area.
8. To ensure the development is carried out without detriment to the health and amenity of trees and hedgerows on the site.
9. To ensure that adequate information is available for the proper consideration of the detailed proposals.
10. To ensure the proper development of the site.
11. 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.
12. To ensure that adequate access and associated facilities are available for the traffic attracted to the site.
13. To provide safe pedestrian access to the nearest available employment site and bus stops and to minimise the impact of the development on the highway network in accordance with paragraph 32 of the Framework.

REASON FOR APPROVAL OF PERMISSION/GRANT OF CONSENT

The application is considered to be in accordance with the requirements of policies COR1, COR2, COR3, COR5, COR8, COR9, COR10 and COR11 of Mid Devon Core Strategy (Local Plan Part 1), AL/DE/3, AL/IN/3 and AL/IN/5 of the Allocation and Infrastructure Development Plan Document (Local Plan Part 2), DM1, DM2, DM3, DM4, DM6, DM27 and DM28 of Local Plan Part 3 (Development Management Policies), policy W4 of the Devon Waste Plan and the National Planning Policy Framework.

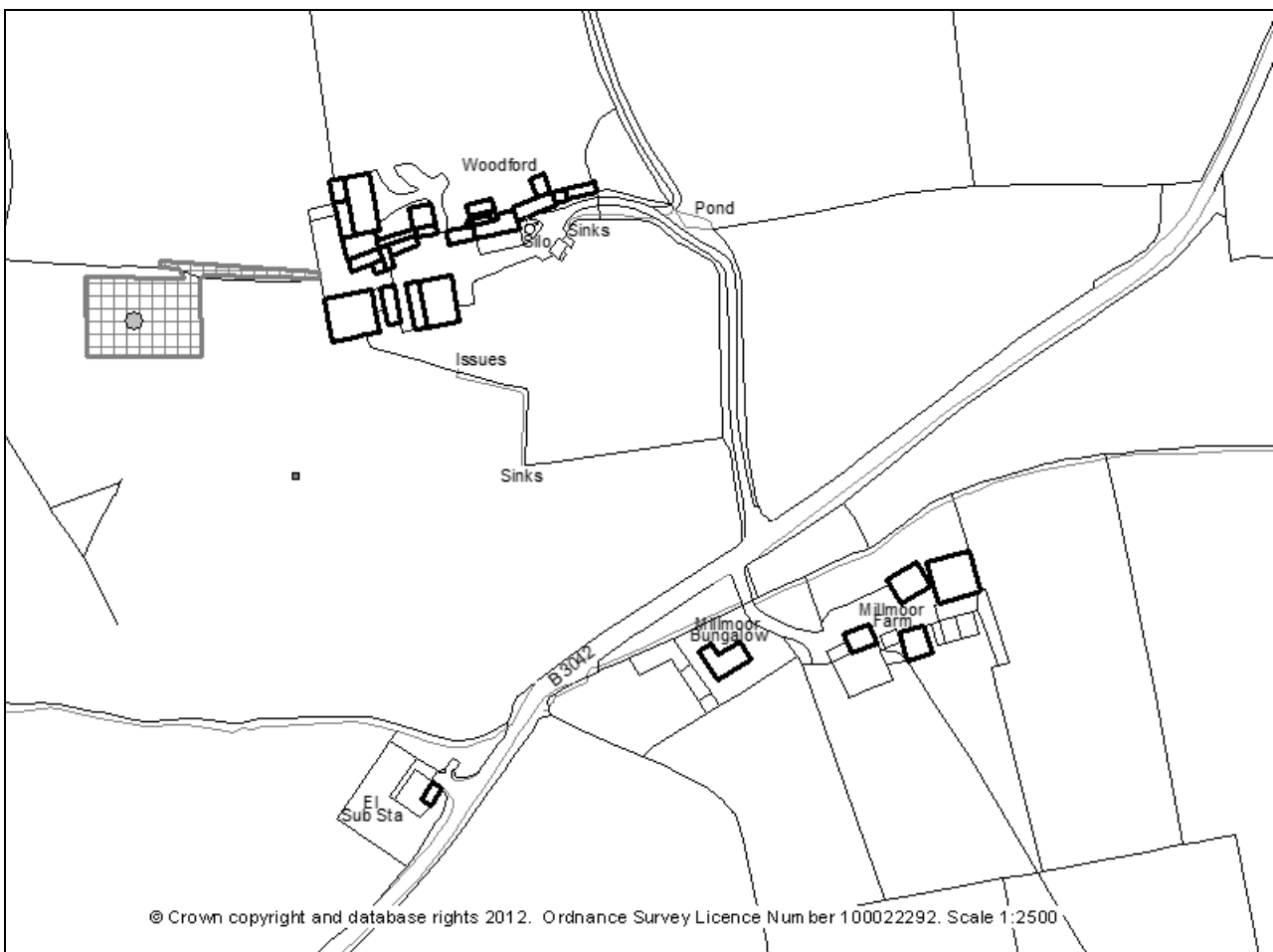
Grid Ref: 280133 : 113091

Applicant: Mr R Hayes

Location: Land and Building at NGR 280066
113155 (Woodford Farm) Witheridge
Devon

Proposal: Erection of a barn to house flexible
generation and energy storage plant
with associated infrastructure, access,
cable route and landscaping

Date Valid: 3rd March 2017



Application No. 17/00395/FULL

RECOMMENDATION

Refuse permission.

COUNCILLOR MRS M SQUIRES AND MRS J BINKS HAVE REQUESTED THAT THIS APPLICATION BE DETERMINED BY THE PLANNING COMMITTEE FOR THE FOLLOWING REASON:

Given the application is considered contrary to policy, it is requested the application is called in so that the benefits of the application scheme can be considered by the planning committee.

PROPOSED DEVELOPMENT

The application seeks consent for the erection of a building to house flexible generation and energy storage plant with associated infrastructure, access, cable route and landscaping at Woodford Farm, Witheridge. The site is located approximately 1km to the south of Witheridge and is accessed via a private lane from the B3042 to the south. The site forms part of an agricultural field to the west of the main farm complex, adjacent to the agricultural building permitted under 16/00942/FULL which has recently been completed.

The proposed building will house flexible generation and energy storage equipment which the applicant states is required to provide reserve power for the National Grid to ensure capacity when actual demand is greater than forecast and/or plant availability. The proposal will provide a short term solution within the network whilst low carbon technologies are implemented. The energy will be provided by six dual fuel generators that will operate for a maximum of 250 hours per year with the potential to produce 2500MWh of energy per year to the local network and the onsite energy storage. The energy storage will be provided by batteries and transformers within two shipping containers inside the main building and providing a storage capacity of 2MWh. The energy infrastructure will be connected to the existing substation to the south of the site adjacent to the B3042 via an underground cable. The primary fuel source is diesel. The proposal is not agricultural; it is not required for agricultural purposes in connection with the farm building.

The scope of the proposed built development includes four main elements; the 'agricultural barn' building housing the energy generation and storage plant and to the north of this a switch room, substation and a bulk fuel tank, the details of each are set out below;

- i. The proposed building will be 40m long by 10m wide, 6.1m high to ridge and 4.2m to eaves. It will be constructed with a steel portal frame clad in green metal sheeting with roller shutter doors to the east and west elevations. Given the equipment contained within it, the building is proposed to have weather louvres to the north and south elevations to ensure sufficient ventilation.
- ii. Switch room: a flat roof, rectangular building, 3.7m high, 11m long by 5m wide. To be finished in a green colour.
- iii. Substation building: a mono pitch building 4.28m high to ridge.
- iv. Fuel tank: situated adjacent to the site access, 2.3m wide by 5.5m long and 2.5m high, to be green in colour.

The scheme also includes proposed landscaping to the south of the barn including a new native hedgerow on shallow bank and tree planting.

APPLICANT'S SUPPORTING INFORMATION

Air Quality Assessment by Air Quality Consultants dated March 2017
Noise Assessment by inacoustic dated 3rd March 2017
Preliminary Ecological Appraisal by Western Ecology dated December 2016

PLANNING HISTORY

12/00161/FULL - Erection of a wind turbine with maximum blade tip height of 67m, formation of new vehicular access and associated infrastructure - REFUSED April.2012 (APPEAL DISMISSED 30.10.13)
14/01186/FULL - Installation of a ground-mounted photovoltaic solar panel array to generate 100kW of power (site area 700 sq m) - PERMIT September 2014
15/01438/FULL - Installation of 150KW ground mounted solar panels - PERMIT October.2015
16/00942/FULL - Erection of an agricultural building - PERMIT August 2016

DEVELOPMENT PLAN POLICIES

Mid Devon Core Strategy (Local Plan 1)

COR1 - Sustainable Communities
COR2 - Local Distinctiveness
COR5 - Climate Change
COR18 - Countryside

Mid Devon Local Plan Part 3 (Development Management Policies)

DM1 - Presumption in favour of sustainable development
DM2 - High quality design
DM5 - Renewable and low carbon energy
DM7 - Pollution

CONSULTATIONS

HISTORIC ENVIRONMENT SERVICE - 27th March 2017 - No objection subject to a condition securing a programme of archaeological work and written scheme of investigation to ensure that an appropriate record is made of archaeological evidence that may be affected by the development.

HIGHWAY AUTHORITY - 13th March 2017 - Standing advice applies please see Devon County Council document <http://www.devon.gov.uk/highways-standingadvice.pdf>

THELBRIDGE PARISH COUNCIL - Support

ENVIRONMENTAL HEALTH - 16th March 2017 - No Objection

NATURAL ENGLAND - 20th March 2017 No objection

The proposed development will not damage or destroy the interest features for which Hare's Down, Knowstone and Rackenford Moors SSSI has been notified.

REPRESENTATIONS

At the time of writing this report 11 letters of objection have been received and two in support, these are summarised below.

Objections:

1. The applicant has not demonstrated any need for the facility to be located in this rural location
2. Diesel generators are the most carbon intensive form of generation, the generators will burn a huge amount of diesel which will pollute the countryside air
- 3... These are large industrial buildings not agricultural and will be a blot on the landscape
- 5... The proposal is clearly not sustainable contrary to COR1 of the Mid Devon Local Plan and the NPPF
4. The area is a clean, quiet rural location appreciated by holiday makers and walkers using the Two Moors Way and would be spoilt by the noise and pollution from the large generators.
- 6... The polluting diesel particulates will be blown over Witheridge where there are many elderly and young people
7. Wildlife is sensitive to vibration through the ground, sound pressure waves and diesel pollution

8. Such development should be located in existing industrial areas
- 9.. The diesel generators operate at a maximum of 250 hours per year and therefore the proposal represents a massive waste of resource creating unnecessary pollution in the countryside
10. The applicants statement and further letter is full of flaws- the capacity of the generators and storage capacity of the batteries should be given in MW

Support:

1. It is wonderful idea for the area to guaranteed electricity when it is in short supply
2. The existing trees will mask views from neighbours and the road so the visual impact is minimal and the shed will look like any other agricultural building
3. The batteries would be able to react almost immediately to demand unlike conventional steam power generators
4. The level of sound generated would not be an issue
5. The ability to store excess power generated by wind and solar facilities is vital

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The main issues in determination of this application are:

- 1. Policy and principle of development**
- 2. Highway Impacts**
- 3. Landscape and Visual Impacts**
- 4. Ecology**
- 5. Air Quality and Noise**
- 6. Other issues- archaeology,**

- 1. Policy and principle of development**

Applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

The site is located in the countryside where policy COR18 strictly controls development to enhance the character, appearance and biodiversity of the countryside while promoting sustainable diversification of the rural economy. The policy permits agricultural and other appropriate rural uses as set out by points a- f below:

- a. 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;
- b. Appropriately scaled retail, employment, farm diversification and tourism related development (including conversion of existing buildings);
- c. Appropriately scaled and designed extensions and other physical alterations to existing buildings;
- d. Agricultural buildings;
- e. Community facilities, such as educational facilities, buildings associated with public open space, development required to support or enhance biodiversity or geodiversity interests, transportation and infrastructure proposals, horse riding establishments and golf facilities; and
- f. Renewable energy and telecommunications.

Policy DM1 of the Local Plan part 3 (Development Management Policies) provides a presumption in favour of sustainable development and states that opportunities for development are to be sought and facilitated without delay unless there would be adverse impacts that significantly and demonstrably outweigh the benefits. Policy COR5 seeks measures to minimise the impact of development on climate change, and contribute towards national and regional targets for the reduction of greenhouse gas emissions. Policy DM5 supports the provision of renewable and low carbon energy where they do not have significant adverse impacts on the character, amenity and visual quality of the area.

Although the building is described by the applicants as an agricultural barn, the nature of the activities within the building are not considered to be agricultural and as such it is not considered that the proposal accords

with any criteria a-f above. The generators are dual fuel and therefore designed to run on a combination of diesel, bio diesel and gas, with the applicants stating a preference for bio diesel, however the supporting studies utilise a 'worst case scenario' of diesel. The burning of diesel fuels generating carbon is contrary to national and local objectives to reduce carbon emissions and move to a low carbon future. It is therefore considered that the proposed development represents an unsustainable approach to the generation of energy contrary to the clear aims of national and local planning policy which seeks to deliver a low carbon future through the provision of renewable energy. Whilst there are some benefits associated with the provision of stored energy it is considered that the provision of this unsustainable industrial development in this countryside location is not supportable in policy terms.

2. Highway Impacts

The site is accessed via the existing farm lane, through the yard and across the bottom of the agricultural field to the north of the site and via a new gap in the hedgerow. The fuel tank is designed to store up to 160000 litres of fuel. On the basis that the generators will be operational for no more than 250 hours per year, it is anticipated that the development will generate 42 trips to the site per year. This amounts to less than 1 per week. It is noted that no objections have been received from the Highway Authority and overall it is considered that the level of traffic associated with the development is unlikely to result in any significant adverse highway impacts.

3. Landscape and Visual Impacts

Policy COR2 of the Mid Devon Core Strategy requires development to sustain the distinctive quality, character and diversity of Mid Devon's environmental assets. Additional, policy DM2 of the Local Plan part 3 (Development Management Policies) requires designs of new developments to be of high quality and show a clear understanding of the characteristics of the site, its wider context and the surrounding area.

As set out above, the site is located to the west of the main farmstead adjacent to the previously approved agricultural building. The main building, as described above, is a large structure (800sqm) and will be clearly visible particularly from the B3042 to the south. The site would be contained by a 1m high post and wire fence and landscaping as set out above. The site is surrounded by a field network with boundaries of hedgerows and only occasional trees. To the north of the site there are two rows of photovoltaic panels. (granted under 14/01186/FULL) with permission for a further 3 rows (15/01438/FULL). The Two Moors Way footpath runs to the east of the main farmstead. The Landscape and Visual Impact Assessment submitted with the application concludes that development would not result in unacceptable harm to the local landscape character or cause significant visual intrusion.

It is accepted that the proposed building will be viewed in the context of the existing farm complex and particularly the recently approved agricultural building. Furthermore, there are existing large agricultural buildings nearby. Notwithstanding this, the proposed building is of substantial scale with a number of industrial features- weather louvres to the north and south elevation, six stacks from the generators and CCTV cameras. The presence of this substantial building with industrial features and associated ancillary structures is considered to have a negative impact on the rural character of the area which is not outweighed by any benefits of the scheme. On this basis the proposal is considered to be contrary to the requirements of policy COR2 and DM2.

4. Ecology

A preliminary ecological appraisal by Western Ecology has been submitted in support of the application. The survey identifies that the proposal will not have any significant adverse impacts on any habitats or species of nature conservation importance. A gap of approximately 7m will be made in the existing hedgerow to the north of the site to create the access and some gaps will be created where the cable route passes through the hedge bank to the south. Any gaps will be infilled with soil and replanted with native shrubs. The loss of hedgerow is mitigated by the gain in approximately 50m of hedgerow provide as part of the landscaping proposals.

The proposal does not include any specific mitigation measures in relation to any other habitats or species and it is not recommended that any further survey work is required.

5. Air Quality and Noise

The air quality assessment submitted with the application is based upon the generators operating for a maximum of 250 hours per year on diesel fuel. The assessment considers the potential impacts in relation to the air quality objectives set to protect human health and ecosystems at 15 nearby properties, the closest boundary of ancient woodland sites and the Culm Grasslands SAC. The report concluded that the impacts arising from the development would be insignificant in respect of: annual mean nitrogen dioxide concentrations, 1-hour mean nitrogen dioxide concentrations, annual and 24hour mean particulate matter concentrations, nitrogen oxides concentrations and nitrogen deposition.

The noise assessment considers the impact of the development upon noise- sensitive receptors based on the guidance contained within BS4142:2014. The report concludes that the providing that the cumulative rating sound level from the mechanical plant items does not exceed the stated noise criteria the impact of sound from such sources is predicted to have an impact not exceeding a No Observed Adverse Effect Level (NOAEL).

It is noted that the Council's Environmental Health team have not raised any objection in respect of noise or air quality. On the basis of the submitted evidence base, it is not considered that the proposed development would have a significant adverse impacts in terms of air quality or noise.

6. Other issues- Archaeology

The consultation response from the Historic Environment team requests a written scheme of investigation to secure a programme of archaeological work as the site lies in an area of archaeological potential.

REASON FOR REFUSAL

1. The site is located in the countryside where policy COR18 strictly controls development to enhance the character, appearance and biodiversity of the countryside while promoting sustainable diversification of the rural economy. It is considered that the proposed development represents an unsustainable approach to the generation of energy contrary to the aims of national and local planning policy which seeks to deliver a low carbon economy through the provision of renewable energy. Additionally, the proposed building is of substantial scale with industrial features in the countryside location of which has not been justified and its presence in the landscape is considered to have a negative impact on the rural character of the area which is not outweighed by any benefits of the proposed scheme in terms of supporting sustainable diversification of the rural economy. Overall it is considered that the proposal presents an unsustainable development in this rural location which is contrary to Policies COR1, COR2, COR5 and COR18 of the Mid Devon Core Strategy (Local Plan part 1), DM1 and DM2 of the Local Plan part 3 (Development Management Policies) and government advice in the National Planning Policy Framework.

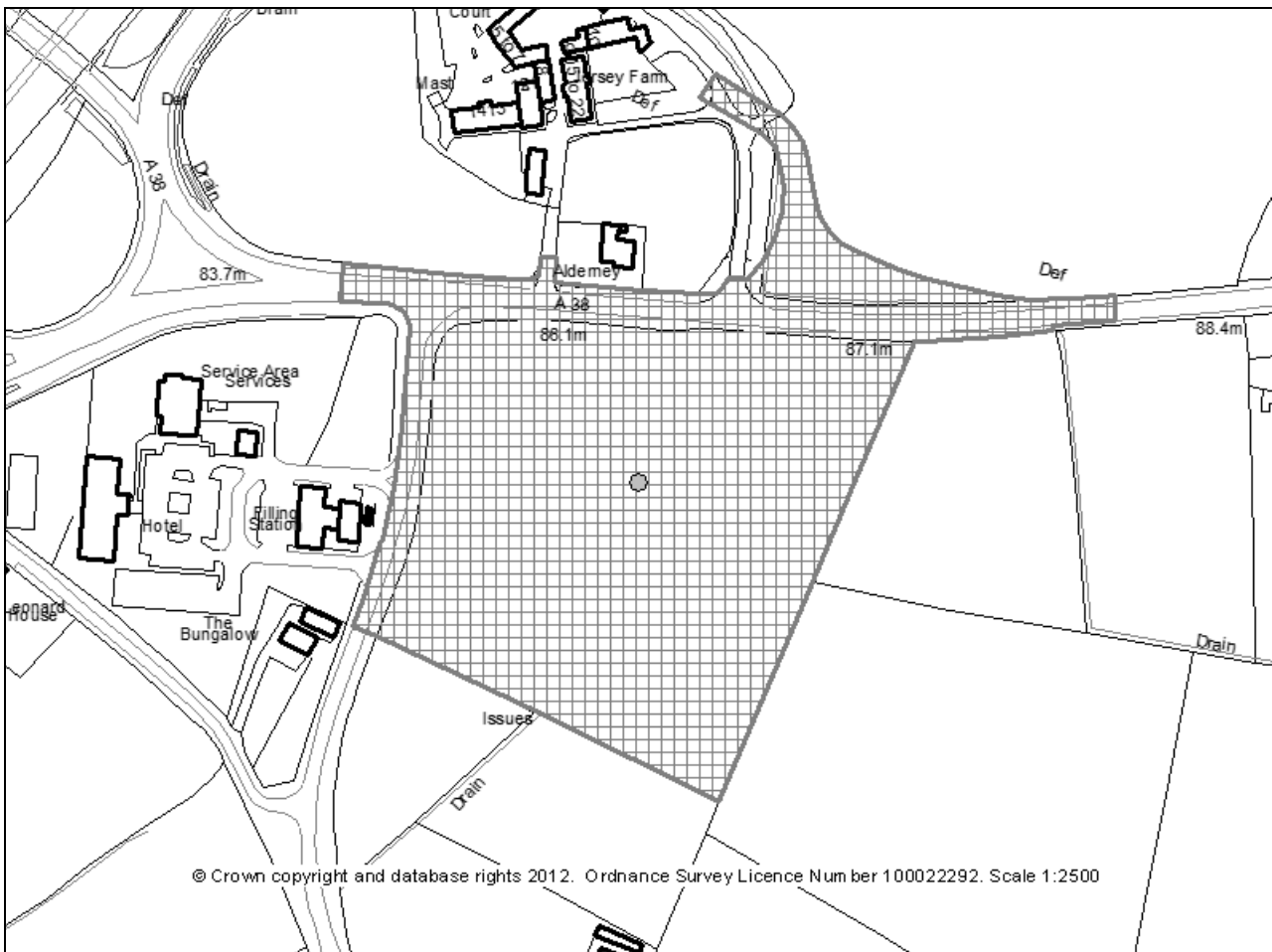
Grid Ref: 305037 : 113872

Applicant: Friends Life Ltd

Location: Land at NGR 305036 113872 (Junction 27) Sampford Peverell Devon

Proposal: Variation of conditions 5, 6, 15, 23, 27, 28, 31, 32, 34 and 35 to allow certain works to be undertaken before additional details are submitted to the Local Planning Authority, to phase the Construction Management Plan/s and to enable works to be carried out before the tree and hedgerow protection fencing is erected; and removal of conditions 24 and 26 (duplication of the requirements of other conditions) of planning permission 13/00947/MOUT

Date Valid: 8th March 2017



Application No. 17/00407/FULL

RECOMMENDATION

Grant permission subject to conditions.

PROPOSED DEVELOPMENT

This application seeks planning permission for the variation of 10 conditions and removal of 2 conditions attached to the outline planning permission for the erection of a Roadside Service Area, HGV filling station and associated parking, drainage and landscaping works at Junction 27 of the M5 motorway, to the east of the existing services and south of the A38. The site forms part of the proposed allocation of land at Junction 27 contained within the Local Plan Review which has been submitted to the Planning Inspectorate for examination. The original proposal to vary Condition 13 has been withdrawn from this application.

Reserved matters approval for the development was resolved to be granted by Planning Committee at the meeting of 1st February 2017.

The conditions seeking to be amended relate to the majority of those which require the submission of additional details before work commences on site. These conditions are sought to be amended to allow for some works to be undertaken implementing the permission before further details are submitted for discharge. The conditions sought for removal in part duplicate the requirements of other conditions. Further detail of the specific nature of each condition seeking variation or removal is given in the material considerations section of this report.

APPLICANT'S SUPPORTING INFORMATION

Covering letter

PLANNING HISTORY

93/00294/OUT - Outline for the erection of extension of existing facilities and parking to meet full motorway service area standards - Granted October 1995

00/01693/FULL - Application under S.73 of the Town and Country Planning Act 1990 to carry out development permitted under planning permission. 4/06/93/0294 (outline for extension of existing facilities and parking to meet full motorway service area standards) without complying with conditions 2,3,4, and 5 (relating to time limits for submission of Reserved matters and commencement, completion of off-site drainage works and completion of specific highways works) - Granted October 2004.

04/02160/ARM - Reserved Matters for extension of existing facilities and parking to meet full motorway service area standards (following outline approved under planning permission 00/1693/FULL) - Granted July 2005.

06/00674/ADVERT - Consent to display non-illuminated advertisement - Refused May 2006.

09/01380/MOUT - Outline for the erection of mixed use facilities building with associated parking and highway works - refused 15th December 2009 APPEAL ALLOWED WITH CONDITIONS 27.08.10 - REFUSE

10/00546/MOUT Outline for the erection of mixed use facilities building with associated parking and highway works (Revised scheme) - PERMIT

13/00947/MOUT Application to replace extant planning permission 10/00546/MOUT (to extend time limit). Outline for the erection of mixed use facilities building with associated parking and highway works (Revised scheme) - PERMIT

13/01192/MOUT Application to replace extant planning permission 09/01380/MOUT (to extend time limit). Outline for the erection of mixed use facilities building with associated parking and highway works - PERMIT

16/01773/FULL Reserved Matters for the erection of mixed use facilities building with associated parking and highway works following Outline approval 13/00947/MOUT - PERMIT

DEVELOPMENT PLAN POLICIES

Mid Devon Core Strategy (Local Plan 1)

COR1 - Sustainable Communities
COR2 - Local Distinctiveness
COR9 - Access
COR10 - Strategic Transport Networks
COR11 - Flooding
COR18 - Countryside

Mid Devon Local Plan Part 3 (Development Management Policies)

DM2 - High quality design
DM3 - Sustainable design
DM4 - Waste management in major development
DM6 - Transport and air quality
DM8 - Parking
DM20 - Rural employment development
DM28 - Green infrastructure in major development

CONSULTATIONS

BURLESCOMBE PARISH COUNCIL - 20th March 2017 - Burlescombe Parish Council have concerns that the specific detail for the construction phase as required by MDDC the planning permission 13/00947/MOUT is being either removed or diluted with this current application and therefore object. In particular the removal of condition 26 removing the specific details of the hedging planting as condition 32 does not replicate the requirement.

HIGHWAY AUTHORITY - 11th April 2017 - No Objection

WILLAND PARISH COUNCIL - 28th March 2017 - Following the discussion at the meeting on Thursday 23 March Willand Parish Council would recommend the refusal of this application. Their recommendation is made with the following points in mind:

These conditions were laid out and agreed as part of the approval to 13/00947/MOUT. They do not appear to have been made the subject of appeal in the three years since that approval and therefore must be assumed to have been acceptable to the applicant.

No comment was made as to a wish to change these conditions when application 16/01773/MARM was made in respect of the reserved matters.

It is now suggested that the conditions would not be placed on the approval in the current planning climate in the light of the NPPF and also there appears to be some reliance on legislation which is pending but not yet enacted.

The applicant is committed to the site being part of the larger Eden Westwood proposals for the whole area. There is no detail of what the meaning or Web site www.willandmatters.org.uk implications of "to enable the provision of hoarding, ground investigation works and the construction of not more than 10 metres of foundation" entails or its purpose in the whole scheme of things.

There may be little problem in carrying out the ground investigation works or the construction of not more than 10 metres of foundation. Why is hoarding needed at this stage? How much is there to be and where will it be? How high will it be and what is its purpose? If it is for security, then Harris Fencing would probably be more appropriate as it can be seen through and so anyone illegally on site can be spotted. It would still allow the main features of the landscape and environment to be seen and enjoyed. Solid hoarding will hide any illegal persons or activity on site and also be a considerable adverse impact on the view and environment. It would also restrict the free movement of wildlife across the site where required precautions have not been

taken prior to the commencement of works. It can also affect visibility at the junction to the current services if not well placed.

If it should be considered appropriate to approve all the suggested changes to the wording set out by the applicant it is argued that there should be no hoarding for the reasons given. If hoarding is permitted it should be conditioned that it should be painted an appropriate colour to blend in as near as possible with the surrounding countryside. It should be further conditioned that it should not be used as a medium for advertising or publicity materials or displays. This is in open countryside and everything should be done to retain that position until final decisions are made as to the end use of the area.

NATURAL ENGLAND - 24th March 2017 - No objection

LEAD LOCAL FLOOD AUTHORITY - 27th April 2017 - No objection

DEVON, CORNWALL & DORSET POLICE - 20th March 2017 - No comments.

ENVIRONMENTAL HEALTH - 23rd March 2017 - No objection

HIGHWAYS ENGLAND - 20th March 2017 - No objection.

REPRESENTATIONS

Two letters of objection received, raising the following issues:

1. Conditions were agreed as part of 13/00947/MOUT and must have been accepted, as they were not contested.
2. No changes to conditions were applied for as part of application 16/01773/MARM.
3. It would appear the developer is using the application as a fall-back position for the Eden Westwood project and wants to do as little work as possible on site to comply with the conditions.
4. Why would hoarding be required at an early stage? Heras fencing could be used and would not block the view of traffic emerging from the C107 onto the A38. Advertising placed on hoardings could be dangerous to motorists.
5. Any variation or removal of conditions protecting wildlife, trees, hedgerows, landscape or the environment should be refused.

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The main issues in the assessment of this application are:

- 1. Issue directly relating to the variation or removal of conditions proposed**
- 2. Other matters, including those raised in consultation and letter of objection**

1. Issues directly relating to the variation or removal of conditions proposed

All planning conditions imposed must meet tests set out by the Government in the National Planning Policy Framework and associated Planning Practice Guidance. Those tests are that a condition is necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

In relation to the imposition of conditions that prevent development from beginning until the condition has been complied with (known as conditions precedent), the Government's Planning Practice Guidance states that such conditions should only be used where the requirements of the condition (including the timing of compliance) are so fundamental to the development permitted that it would have been otherwise necessary to refuse the whole permission. Unless such a condition and its specific timing was fundamental to the acceptability of a permission it could be argued that it would fail the test of reasonableness.

In this instance, a large number of the conditions imposed at outline stage (2014) were done so as conditions precedent, requiring the submission of additional details before works commence on site. A full

copy of the outline planning permission decision notice is appended to this report for information. The conditions proposed for amending are addressed in turn below, with the original condition wording in italics. Numbering references are to the original condition number.

Condition 5. The development hereby approved shall not be carried out other than in accordance with a phasing programme which shall previously have been submitted to and approved in writing by the Local Planning Authority.

It is proposed to amend this condition to define the first phase of development (being ground investigation works and the construction of not more than 10 metres of foundation) and require the phasing programme for the remainder of the development to be submitted before any further works are undertaken. Such an approach is not considered to be unreasonable and will still enable the works to be appropriately phased and for such phasing to be agreed in a timely fashion with the LPA.

Condition 6.

No work shall commence on site until details of a Sustainable Urban Drainage System for managing surface water have been submitted to and approved in writing by the Local Planning Authority. The sustainable urban drainage system shall incorporate porous paving, swales, filter strips, attenuation ponds and reed beds. The surface water management system shall thereafter be completed on site in accordance with the approved drawings and a timetable to be agreed in writing by the Local Planning Authority and thereafter retained.

The reserved matters approval included an updated drawing indicating Sustainable Urban Drainage (SUD) principles for the site and that drawing is referenced in conditions on the reserved matters approval which relate to the details required by this condition. It therefore makes sense that the SUD scheme references in this condition reference that drawing and it has been submitted as part of this application. The condition is therefore proposed to be amended to include reference to that drawing (with similar wording to the reserved matters condition used to clarify that it doesn't approve the use of impermeable paving) and also to allow for ground investigation works and the construction of not more than 10 metres of foundation to be undertaken before these details are submitted. The Lead Local Flood Authority has indicated that it has no objections to the amendments proposed and an appropriate scheme can be delivered, taking into account the works proposed before the final scheme details are approved.

Condition 15.

No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a plan indicating the positions, design materials and type of boundary treatment to be erected. The boundary treatment shall be completed in accordance with a timetable to be agreed in writing with the Local Planning Authority. Development shall be carried out in accordance with the approved details. The boundary treatment once provided shall not be removed.

The timing of the submission of these details is proposed to be amended to allow for ground investigation works and the construction of not more than 10 metres of foundation before details are submitted. The agreement of boundary treatments before works commence is not deemed necessary to make the development acceptable and so the variation requested will continue to render the proposal acceptable.

Condition 23.

No development hereby permitted shall commence until a Construction Management Plan has been submitted and approved in writing by the Local Planning Authority (who shall consult with the Local Highway Authority and the Highways Agency acting on behalf of the Secretary of State for Transport). The plan shall include details of construction vehicle movements, construction operation hours, construction vehicular routes to and from site, construction delivery hours, expected number of construction vehicles per day, car parking for contractors, specific measures to be adopted to mitigate construction impacts in pursuance of the Environmental Code of Construction Practice and a scheme to encourage the use of Public Transport amongst contractors. The development shall be carried out strictly in accordance with the approved construction management plan.

Variations to this condition are proposed to require a new Construction Management Plan for each phase of the development as opposed to a single document being agreed before works commence. This is

considered to be a sensible alteration to the condition as often construction compounds and vehicle parking areas move around a site as development progresses. Furthermore, issues sometimes arise during a development which could then be addressed through a revised Construction Management Plan for the subsequent phase.

Condition 24.

No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a construction management plan (to include air quality and other nuisance impact mitigation measures). Work shall then be carried out on site, only in accordance with the approved details.

Removal of this condition is sought as it largely duplicates the wording of the preceding condition. However the preceding condition does not duplicate the specific requirement for air quality and other nuisance impact mitigation measures to be included in the plan; subject to condition 23 being amended to include this wording also, there is no objection to the removal of the condition.

Condition 26.

No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority an ecological construction method statement (to include details of how the hedges will be retained and protected for wildlife, the provision and protection of buffer zones, appropriate management, lighting restrictions etc). Work shall then be carried out on site, only in accordance with the approved details.

The applicants assert that the requirements of this condition are duplicated in condition 32. Officers do not agree that these two conditions duplicate one another in the majority although they do both relate to ecological considerations. However, variations to condition 32 are also proposed and the applicants have agreed that the requirements of both conditions could be merged. There is no objection to this as the revised condition would continue to secure the information required by both existing conditions. See condition 32 considerations for further detail of the variations requested to that condition.

Condition 27.

Before the development hereby permitted is commenced specific details relating to the provision of a bus stop on the northern and southern side of the A38 in the vicinity of the application site shall have been submitted to, and approved in writing by, the Local Planning Authority. No other part of the development hereby approved shall be brought into its intended use until the bus stop facilities on both sides of the A38 in the vicinity of the site have been provided in accordance with the approved drawings. Following their provision, these facilities shall thereafter be so retained.

Variation of this condition is sought to allow for the details of the bus stops to be submitted before construction of the approved new access onto the A38 begins. The Highway Authority has indicated that it has no objection to this and the revised wording would continue to ensure that the bus stops were provided at an appropriate phase of the development.

Condition 28.

No development shall commence on any part of the development hereby permitted until such time as the details of how the County highway known as the C107 shall be closed at its junction with the A38 to vehicular traffic, have been submitted to and approved in writing by the Local Planning Authority. The closure of the access to all traffic, with the exception of pedestrians and cycles, shall be carried out in accordance with the approved details within 24 hours of the new access from the new roundabout on the A38 to the junction of the C107 being open to all traffic and capable of use.

As with the timings of condition 27, variation of this condition is sought to allow for the details of the stopping up of the C107 to be submitted before construction of the approved new access onto the A38 begins as opposed to before any of the development begins. The Highway Authority has indicated that it has no objection to this and the details required in relation to the closure of the junction would be submitted at an appropriate phase of the development.

Condition 31.

The recommendations in the Extended Phase 1 survey (Devon Wildlife Consultants June 2013), dawn bat survey (Devon Wildlife Consultants July 2013) and Ecological mitigation plan (Devon Wildlife Consultants

July 2013) shall be implemented in full in accordance with a timescale that shall be submitted to and agreed in writing by the Local Planning Authority prior to the commencement of work on the site.

The reserved matters submission included a new Ecology Report which was informed by survey work from 2016 and so is more up-to-date. It is proposed to vary this condition to refer to this later document, which has been submitted as part of this application. Condition 32 is also proposed to be varied to include reference to this report and requires mitigation and management in a phased manner, rendering the submission of a timescale for this condition redundant. No objections to this arise and protected species would continue to be adequately protected and mitigated as part of the development.

Condition 32.

Prior to the commencement of work on the site the following shall be submitted to and approved in writing by the Local Planning Authority:

- i) An ecological management plan based on the recommendations in the ecological mitigation plan (DWC June 2010);*
- ii) An external lighting scheme;*
- iii) A programme of monitoring to assess the effectiveness of the mitigation.*

It is proposed to separate this condition into two areas, one requiring an ecological management plan and programme of monitoring to be submitted for each phase of the development and a second requiring details of external lighting to be approved before their installation. These variations would ensure that any necessary ecological management and mitigation were carried out at the appropriate phase of the development, thus ensuring biodiversity retention and enhancement. No objections from Natural England have been received.

As previously mentioned it is proposed to amalgamate this condition with condition 26.

Condition 34.

No development shall begin until details of measures and calculations to demonstrate how a minimum of 13% of the energy requirements for any new buildings on the site shall come from decentralised on-site renewable or low carbon technologies has been submitted to and approved in writing by the local planning authority. Such approved details shall be implemented and operational prior the first use of the building for its permitted use and thereafter shall be retained as such.

It is proposed to vary this condition so that the details required by this condition are submitted before development relating to the construction of any of the new buildings on the site begins, other than for ground investigation works and not more than 10 metres of foundation. This requested timing would still allow for adequate decentralised energy measures to be designed into the development and should not hinder its delivery.

Condition 35.

No development relating to the construction of the development hereby permitted shall begin until evidence that the development is registered with a BREEAM certification body (or any such equivalent national body which measures sustainable building and which replaces that body) and a pre-assessment report (or design stage certificate with interim rating if available) indicating that the development can achieve the final BREEAM level of a minimum of 'very good' has been submitted to and approved in writing by the local planning authority.

No individual building on the site shall be occupied until a final Certificate has been issued certifying that a minimum of BREEAM (or any such equivalent national measure of sustainable building which replaces that scheme) rating 'very good' has been achieved for this part of the development and evidence of this has been submitted to and approved in writing by the local planning authority.

The first paragraph of this condition is proposed to be varied to allow for ground investigation works and the construction of not more than 10 metres of foundation before the details are required to be submitted to the Local Planning Authority. As with condition 34 discussed above, this timing will still allow for the design of the buildings to be undertaken in a way which ensures compliance with the required standard.

All of the conditions above and the variations or deletions sought will continue to result in a planning permission which would deliver the development in an appropriately timed fashion with any necessary details approved at a relevant stage and meeting the tests for the imposition of conditions.

2. Other matters, including those raised in consultation comments and letters of objection

Condition 13 which relates to the provision of tree and hedgerow protection fencing was originally sought for variation as it is a pre-commencement condition. Following verbal comments from the authority's Tree Officer concerning these amendments, the request to amend this condition has been withdrawn and does not form part of the current considerations.

In their submission, the applicants sought to include the provision of hoarding within the specified works which could be undertaken before details to discharge conditions are submitted. Concerns have been raised by Willand Parish Council and objectors regarding the impact upon amenity and highway safety of the provision of hoarding. Whilst the applicants have stated that it would only be their intention to keep any hoarding erected for the minimum time necessary and that they would likely look to use Heras fencing, as permitted development rights exist for the provision of means of enclosure (it should be noted that such means of enclosure would not be permitted development if they caused a highway safety issue), they are happy for such wording to be omitted from any varied conditions. The application has been considered on this basis.

The applicants have stated in their cover letter that they intend to implement this development in order to safeguard their commercial interests without having to significantly re-allocate resources from the Eden Westwood proposals, which they are also promoting in the J27 area; the variation/removal of these conditions will help to ensure this. It is therefore clear that indeed, the proposal is being treated as a fall-back position by the applicants, however this does not render this submission unacceptable and it must be considered on its own merits.

Applications for the variation of conditions are not time-limited from the date an application is approved and so issues raised relating to the timing of this submission are not relevant. It is also noted that contrary to comments received, two of the conditions imposed on the reserved matters approval in relation to surface water drainage and highways works included similar wording to that now being sought insofar as allowing some works to be undertaken before additional details are submitted (ground investigation works and the construction of not more than 10 metres of foundations).

The time has now elapsed for the submission of any new reserved matters applications and so the development must be undertaken in accordance with the reserved matters approval given earlier in 2017. For this reason, a number of other conditions on the original outline approval which relate to the submission of reserved matters details and the timing of the commencement of development are recommended for variation or deletion. In addition, some other minor alterations are proposed to reflect name changes in government bodies and updated legislation.

CONDITIONS

1. The development hereby permitted shall be begun before 2nd February 2019.
2. The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice and in accordance with the reserved matters details approved under reference 16/01773/MARM.
3. The development hereby approved shall not be carried out other than in accordance with a phasing programme which shall previously have been submitted to and approved by the Local Planning Authority. This condition does not preclude the undertaking of ground investigation works and the construction of not more than 10 linear metres of foundation across the site, which shall be taken as the first phase of development.

4. Other than for the undertaking of ground investigation works and the construction of not more than 10 linear metres of foundation across the site, no work shall commence on site until details of a Sustainable Urban Drainage System for managing surface water have been submitted to and approved in writing by the Local Planning Authority. The sustainable urban drainage system shall follow the principles set on drawing number 002, Proposed Drainage, dated 25/10/2016, except in relation to where that drawing annotates the use of impermeable paving throughout the development.
5. A management plan, setting out the long term management responsibilities and maintenance schedules for the Sustainable Urban Drainage System shall be submitted to and approved in writing by the Local Planning Authority prior to any of the buildings first coming into use.
6. Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from impermeable parking areas and hardstandings shall be passed through an oil interceptor designed and constructed to have a capacity and details compatible with the site being drained. Roof water shall not pass through the interceptor.
7. Oil or chemical storage facilities shall be sited in bunded areas. The capacity of the bund shall be at least 10% greater than the capacity of the storage tank or, if more than one tank is involved, the capacity of the largest tank within the bunded area. Hydraulically inter-linked tanks shall be regarded as a single tank. There shall be no working connections outside the bunded area.
8. All planting, seeding and turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever ever is the sooner, and any trees or plants which, within a period of 5 years from the completion of the development, die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of a similar size and species.
9. A landscaping management plan, including long term objectives, management responsibilities and maintenance schedules for all landscaping areas and existing trees and hedges shall be submitted to and approved in writing by the Local Planning Authority prior to the occupation of the development or of any phase of the development, whichever ever is the sooner, for its permitted use. The landscape management plan shall be carried out as approved.
10. No work shall commence on site, until tree and hedge protection fencing has been erected on site in accordance with details and in a position to be agreed in writing by the Local Planning Authority. The fencing shall be provided on site and retained for the duration of the works and/or shall only be removed when the development has been completed or as agreed otherwise in writing by the Local Planning Authority. During the period of construction of the development the existing soil levels around the boles of the hedges so retained shall not be altered.
11. During the period of construction of the development:
 - (i) No excavations, site works, trenches or channels shall be cut, or pipes or services laid in such a way as to cause damage or injury to the trees by interference with their root structure.
 - (ii) No fires shall be lit within the spread of the branches of the trees.
 - (iii) No materials or equipment shall be stored within the spread of the branches of the trees.
 - (iv) Any accidental damage to the trees shall be cleared back to undamaged wood and be treated with a preservative if appropriate.
 - (v) Ground levels within the spread of the branches of the trees shall not be raised or lowered in relation to the existing ground level, or trenches excavated except in accordance with details shown on the approved plans
12. Other than for ground investigation works and the construction of not more than 10 linear metres of foundation across the site, no development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a plan indicating the positions, design materials

and type of boundary treatment to be erected. The boundary treatment shall be completed in accordance with a timetable to be agreed in writing with the Local Planning Authority. Development shall be carried out in accordance with the approved details. The boundary treatment once provided shall not be removed.

13. No part of the development hereby approved shall be occupied or brought into use until the highway works shown on drawing number C11032/4A (a copy of which is appended to this decision notice) have been completed and are available for use by the travelling public.
14. Occupation of the roadside service area building, petrol filling station and use of the site as a car park for the travelling public shall not begin until:
 - (i) the existing access road (the C107) has been closed in accordance with details which shall have been submitted to and approved in writing by the Local Planning Authority, and
 - (ii) the new roundabout junction to provide access to the site and the existing Swallow Court employment development as detailed on Tony Gee drawing reference C108188/R/501E has been completed and is capable of use.

The occupation of the roadside service area building, petrol filling station and use of the site as a car park for the travelling public shall not begin until the works as mentioned at 14 (i) and 14 (ii) above have been certified in writing as complete by the Local Planning Authority (who shall consult with the Local Highways Authority and Highways England on behalf of the Secretary of State for Transport).

15. The maximum floorspace (Gross Floor Area - External) of the amenity building hereby permitted shall not exceed a total of 1750 square metres (including the second floor), and that of the proposed filling station kiosk shall not exceed a maximum floorspace (Gross Floor Area - External) of 50 square metres.
16. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order) (with or without modification), no more than 550 square metres (Gross Floor Area) of the total floorspace within the amenity building shall be used for a retail use (including 50 square metres Gross Floor Area which must only be used for the sale of products originating from the region) within Class A1 of the Town and Country Planning (Use Classes) Order 1987 (or any order revoking and re-enacting that Order) (with or without modification).

In addition, no more than 800 square metres (Gross Floor Area) within the amenity building is to be used for the purposes of restaurant/café floorspace (A3 use); no more than 30 square metres (Gross Floor Area) within the amenity building is to be used as a Tourist Information Centre (A2 use), and no more than 210 square metres (Gross Floor Area) is to be used for the purposes of private staff accommodation, administration and storage (B1 use).

17. The retail facilities within the development shall only be part of and ancillary to the principal use of the site as a roadside service area. No retail goods within the retail outlets (within the amenity building and proposed filling station kiosk) shall be sold other than food and drink items; confectionery; newspapers and magazines; tobacco; books and maps; audio and video media; non-prescription medicines and first aid items; flowers; toiletries; and car accessories.
18. A comprehensive Travel Plan shall be developed for all elements of the development hereby permitted. The Travel Plan shall be submitted to and approved in writing by the Local Planning Authority (who shall consult with the Local Highway Authority and Highways England acting on behalf of the Secretary of State for Transport), prior to the occupation of the roadside service area building, petrol filling station and use of the site as a car park for the travelling public.

The Travel Plan shall be prepared in line with prevailing policy, best practice and previously agreed Framework Travel Plan (June 2010) and as a minimum shall include:

- (i) The identification of targets for trip reduction and modal shift
- (ii) The methods to be employed to meet these targets
- (iii) The mechanisms for monitoring and review
- (iv) The mechanisms for reporting
- (v) The penalties to be applied in the event that target are not met
- (vi) The mechanisms for mitigation
- (vii) Implementation of the Travel Plan to an agreed timescale or timetable and its operation thereafter.
- (viii) Mechanisms to secure variations to the Travel Plan following monitoring and review.

A review of the target shall be undertaken within 3 months of the occupation of the development and on an annual basis thereafter, at the time of submission of the annual Travel Plan Report, for a period of five years.

19. No development hereby permitted shall commence on each phase of the development as agreed under condition 5 of this planning permission until a Construction Management Plan has been submitted and approved in writing by the Local Planning Authority (who shall consult with the Local Highway Authority and Highways England acting on behalf of the Secretary of State for Transport). The plan shall include details of air quality and other nuisance impact mitigation measures, construction vehicle movements, construction operation hours, construction vehicular routes to and from site, construction delivery hours, expected number of construction vehicles per day, car parking for contractors, specific measures to be adopted to mitigate construction impacts in pursuance of the Environmental Code of Construction Practice and a scheme to encourage the use of Public Transport amongst contractors. Each phase of the development shall be carried out strictly in accordance with the approved construction management plan for that phase.
20. The first use of the development hereby approved shall not begin until the electric vehicle charging points identified on the approved plans for reserved matters approval reference 16/01773/MARM have been provided on site and they shall be retained thereafter.
21. No works for the construction of the new access onto the A38 shall begin until specific details relating to the provision of a bus stop on the northern and southern side of the A38 in the vicinity of the application site shall have been submitted to, and approved in writing by, the Local Planning Authority. No other part of the development hereby approved shall be brought into its intended use until the bus stop facilities on both sides of the A38 in the vicinity of the site have been provided in accordance with the approved drawings. Following their provision, these facilities shall thereafter be so retained.
22. No works for the construction of the new access onto the A38 shall begin until such time as the details of how the County highway known as the C107 shall be closed at its junction with the A38 to vehicular traffic, have been submitted to and approved in writing by the Local Planning Authority. The closure of the access to all traffic, with the exception of pedestrians and cycles, shall be carried out in accordance with the approved details within 24 hours of the new access from the new roundabout on the A38 to the junction of the C107 being open to all traffic and capable of use.
23. The two existing private accesses from the A38 to Jersey Farm shall be permanently closed to vehicular traffic within 24 hours of the new access to Jersey Farm being completed and capable of use.
24. Development shall be carried out at all times in accordance with the recommendations contained within the Ecology Report dated 31 October 2016 prepared by Engain (ref. eg16778).

25. (i) Prior to the commencement of the each phase of development as agreed under condition 5 of this planning permission, an ecological management plan in relation to that phase and based on the recommendations in the Ecology Report dated 31 October 2016 prepared by Engain (ref. eg16778) shall have been submitted to and approved in writing by the Local Planning Authority. The management plan shall include an ecological construction method statement (to include details of how the hedges will be retained and protected for wildlife, the provision and protection of buffer zones, appropriate management, lighting restrictions etc) and a programme of monitoring to assess the effectiveness of the ecological mitigation.

(ii) No external lighting shall be installed until an external lighting scheme has been submitted to and approved in writing by the Local Planning Authority.

Development shall be carried out in accordance with the approved details.

26. The development shall be overseen by an ecological clerk of works.
27. Other than for ground investigation works and the construction of not more than 10 linear metres of foundation across the site, no development shall begin until details of measures and calculations to demonstrate how a minimum of 13% of the energy requirements for any new buildings on the site shall come from decentralised on-site renewable or low carbon technologies has been submitted to and approved in writing by the local planning authority. Such approved details shall be implemented and operational prior the first use of the building for its permitted use and thereafter shall be retained as such.
28. Other than for ground investigation works and the construction of not more than 10 linear metres of foundation across the site no development relating to the construction of the development hereby permitted shall begin until evidence that the development is registered with a BREEAM certification body (or any such equivalent national body which measures sustainable building and which replaces that body) and a pre-assessment report (or design stage certificate with interim rating if available) indicating that the development can achieve the final BREEAM level of a minimum of 'very good' has been submitted to and approved in writing by the local planning authority.

No individual building on the site shall be occupied until a final Certificate has been issued certifying that a minimum of BREEAM (or any such equivalent national measure of sustainable building which replaces that scheme) rating 'very good' has been achieved for this part of the development and evidence of this has been submitted to and approved in writing by the local planning authority.

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, being the date two years from the date of the approval of the final reserved matters.
2. For the avoidance of doubt and in the interests of proper planning.
3. In the interests of highway safety and the ordered development of the site in accordance with Local Plan Part 3 (Development Management Policies) Policy DM2.
4. To prevent an increase in the risk of flooding downstream of the site in accordance with Mid Devon Core Strategy (Local Plan Part 1) Policy COR11 and Local Plan Part 3 (Development Management Policies) Policy DM2.
5. To ensure that appropriate measures are in place for the long term maintenance and management of the Sustainable Urban Drainage System within the site to ensure that it continues to operate

effectively in accordance with Mid Devon Core Strategy (Local Plan Part 1) Policy COR11 and Local Plan Part 3 (Development Management Policies) Policy DM2.

6. To prevent pollution of the water environment in accordance with Local Plan Part 3 (Development Management Policies) Policies DM2 and DM7.
7. To prevent pollution of the water environment in accordance with Local Plan Part 3 (Development Management Policies) Policies DM2 and DM7.
8. To ensure that the development makes a positive contribution to the character and amenity of the area in accordance with Local Plan Part 3 (Development Management Policies) Policy DM2.
9. To ensure that appropriate measures are in place for the long term maintenance and management of landscape areas within the site, in the interest of visual amenity of the area in accordance with Local Plan Part 3 (Development Management Policies) Policy DM2.
10. To ensure the development makes a positive contribution to the character and appearance of the area by protecting the existing trees during development in accordance with Local Plan Part 3 (Development Management Policies) Policy DM2.
11. In the interests of preserving the health and vitality of existing trees on the development site, the loss of which would have an adverse effect on the visual qualities of the area in accordance with Local Plan Part 3 (Development Management Policies) Policy DM2.
12. In the interest of preserving the visual amenity of the area in accordance with Local Plan Part 3 (Development Management Policies) Policy DM2.
13. To maintain the safe and efficient operation of the Strategic Road Network in accordance with Local Plan Part 3 (Development Management Policies) Policy DM2.
14. To ensure that the development is carried out in accordance with the information submitted which forms part of the application and to protect the safe and efficient operation of the local and strategic highway network.
15. To reflect the specific amount of floorspace proposed in the application supporting documents, and to ensure that the facilities are limited in size so as to cater only for the needs of the travelling public without detrimental impact on the safe and efficient operation of the local and strategic highway network in accordance with Mid Devon Core Strategy (Local Plan Part 1) Policy COR18 and Local Plan Part 3 (Development Management Policies) Policy DM20.
16. To reflect the specific amount of floorspace proposed in the application supporting documents, and to ensure that the facilities are limited in size so as to cater only for the needs of the travelling public, and that the retail facilities would not become a retail destination in their own right in accordance with Mid Devon Core Strategy (Local Plan Part 1) Policy COR18 and Local Plan Part 3 (Development Management Policies) Policy DM20.
17. To ensure that the retail facilities only cater for the needs of the travelling public and they do not become a retail destination in their own right encouraging additional trips on the local and strategic road network in accordance with Mid Devon Core Strategy (Local Plan Part 1) Policy COR18 and Local Plan Part 3 (Development Management Policies) Policy DM20.

18. To ensure that the operation of the Strategic Highway Network is protected and that sustainable travel objectives for the site are met and maintained.
19. To ensure the appropriate controls are in place to monitor and manage the site generated construction traffic and to minimise the deterioration of local air quality in particular at the nearest residential dwelling during the construction phase of the development in accordance with Local Plan Part 3 (Development Management Policies) Policies DM2 and DM7.
20. To minimise the deterioration of local air quality in particular at the nearest residential dwelling during the construction phase of the development in accordance with Local Plan Part 3 (Development Management Policies) Policies DM2 and DM7.
21. In the interests of highway safety.
22. In the interests of highway safety, to ensure the safe operation of the strategic highway network and to prevent a multiplicity of accesses.
23. To minimise the number of accesses onto the public highway and to provide a satisfactory access to Jersey Farm.
24. To prevent, reduce or offset adverse effects on the natural environment.
25. To ensure habitats and species are protected and buffered from the development.
26. In order to advise contractors regarding ecological issues and ensure mitigation is implemented correctly.
27. To minimise the carbon footprint of this part of the development in accordance with Policy AL/IN/6 of the Allocations and Infrastructure Development Plan Document (Local Plan Part 2).
28. In order to ensure that the development utilises sustainable design and construction methods in accordance with Policy DM3 of Local Plan Part 3 (Development Management Policies).

INFORMATIVE NOTES:

1. The Environment Agency advised that:
 - a) In respect of the proposed new private sewage treatment plant to serve the development, an Environmental Permit (Consent to Discharge) will be required. The applicant/agent will need to contact our National Contact & Permitting Centre on 08708 506 506 for the application forms and further advice.
 - b) From the Environment Management (Water Quality) aspect there are no objections in principle to drain the foul effluent from this development via a package treatment plant provided that:
 - (i) The foul drainage is kept separate from clean surface and roof water.
 - (ii) The applicant applies for and is granted a Consent to Discharge from this Agency under the Water Resources Act 1991. The applicant can obtain application forms and further advice by contacting our National Customer and Permitting Centre on 08708 506 506. For information this process can take up to four months to complete and no guarantee can be given regarding the eventual outcome of an application until all the investigations associated with the determination have been completed and an evaluation of the proposal has been made.

2. You are advised that planning permission does not absolve you from complying with the relevant law, including obtaining and complying with the terms and conditions of any protected species licences required.

REASON FOR APPROVAL OF PERMISSION/GRANT OF CONSENT

This application seeks consent to vary 10 conditions and remove 2 conditions of the outline planning permission for the provision of motorway service facilities associated with the functioning of J27 of the M5. Since the granting of the original outline planning permission by the Planning Inspectorate, guidance on the imposition of planning conditions and particularly with regard to the timing and submission of additional details post decision has changed and Local Planning Authorities are encouraged to ensure that the wording of conditions does not place an undue burden on applicants and to have regard to the tests required to be passed regarding the imposition of conditions. In this instance, the conditions seeking variation would allow for works to commence on-site in advance of a range of additional details being sought, however those details remain to be sought at an appropriate time so that the development would be undertaken in a proper fashion having regard to all material considerations. The requirements of the two conditions seeking removal are incorporated into the wording of two other similarly worded existing conditions and there is no effect from their deletion. Subject to the imposed conditions the proposed development would not lead to increased highway safety risks on either the local or strategic highway network and would not have a demonstrably harmful impact upon local ecology and protected species, the amenity and living conditions of neighbouring properties and uses and would not harm the vitality or viability of nearby village and town centres. For these reasons and having regard to all other matters raised the development is in accordance with Mid Devon Core Strategy (Local Plan Part 1) Policies COR1, COR2, COR9, COR10, COR11 and COR18, Local Plan Part 3 (Development Management Policies) Policies DM2, DM3, DM4, DM6, DM8, DM20 and DM28 and the National Planning Policy Framework.

Mrs Jenny Clifford
Head of Planning and Regeneration

Reference No: 13/00947/MOUT
Parish: Burlescombe 06

TOWN AND COUNTRY PLANNING ACT 1990

APPROVAL OF OUTLINE PLANNING APPLICATION

Name and Address of Applicant:

Friends Life Ltd
C/o AXA Real Estate Investment Managers
UK Ltd
155 Bishopsgate
London
EC2M 3XJ

Name and Address of Agent:

Miss Victoria Trotman
RPS Planning & Development Ltd
2420 The Quadrant
Aztec West
Almondsbury
Bristol
BS32 4AQ

Date Registered : 4th July 2013

Proposal: Application to replace extant planning permission 10/00546/MOUT (to extend time limit). Outline for the erection of mixed use facilities building with associated parking and highway works (Revised scheme)

Location: Land at NGR 305036 113872 (Junction 27) Sampford Peverell Devon

Site Vicinity Grid Ref: 305037/113872

MID DEVON DISTRICT COUNCIL HEREBY GRANTS OUTLINE PLANNING PERMISSION FOR THE ABOVE DEVELOPMENT

Subject to the following conditions:

1. Before any part of the development hereby permitted is begun, detailed drawings to an appropriate scale of the layout, scale and appearance of the building(s), and the landscaping of the site (hereinafter called the Reserved Matters) shall be submitted to and be approved in writing by the Local Planning Authority.
2. Application(s) for approval of 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 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. The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice.
5. The development hereby approved shall not be carried out other than in accordance with a phasing programme which shall previously have been submitted to and approved by the Local Planning Authority.

6. No work shall commence on site until details of a Sustainable Urban Drainage System for managing surface water have been submitted to and approved in writing by the Local Planning Authority. The sustainable urban drainage system shall incorporate porous paving, swales, filter strips, attenuation ponds and reed beds. The surface water management system shall thereafter be completed on site in accordance with the approved drawings and a timetable to be agreed in writing by the Local Planning Authority and thereafter retained.
7. A management plan, setting out the long term management responsibilities and maintenance schedules for the Sustainable Urban Drainage System shall be submitted to and approved in writing by the Local Planning Authority prior to any of the buildings first coming into use.
8. Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from impermeable parking areas and hardstandings shall be passed through an oil interceptor designed and constructed to have a capacity and details compatible with the site being drained. Roof water shall not pass through the interceptor.
9. Oil or chemical storage facilities shall be sited in bunded areas. The capacity of the bund shall be at least 10% greater than the capacity of the storage tank or, if more than one tank is involved, the capacity of the largest tank within the bunded area. Hydraulically inter-linked tanks shall be regarded as a single tank. There shall be no working connections outside the bunded area.
10. The landscaping details required by Condition 1 above shall include all existing trees and hedgerows on the site, and details of those which are to be retained, with measures for their protection during the course of the development, together with a phasing scheme of planting of trees and shrubs (which shall include details of the species, siting and numbers to be planted).
11. All planting, seeding and turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner, and any trees or plants which, within a period of 5 years from the completion of the development, die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of a similar size and species.
12. A landscaping management plan, including long term objectives, management responsibilities and maintenance schedules for all landscaping areas and existing trees and hedges shall be submitted to and approved in writing by the Local Planning Authority prior to the occupation of the development or of any phase of the development, whichever is the sooner, for its permitted use. The landscape management plan shall be carried out as approved.
13. No work shall commence on site, until tree and hedge protection fencing has been erected on site in accordance with details and in a position to be agreed in writing by the Local Planning Authority. The fencing shall be provided on site and retained for the duration of the works and/or shall only be removed when the development has been completed or as agreed otherwise in writing by the Local Planning Authority. During the period of construction of the development the existing soil levels around the boles of the hedges so retained shall not be altered.
14. During the period of construction of the development:
 - (i) No excavations, site works, trenches or channels shall be cut, or pipes or services laid in such a way as to cause damage or injury to the trees by interference with their root structure.
 - (ii) No fires shall be lit within the spread of the branches of the trees.
 - (iii) No materials or equipment shall be stored within the spread of the branches of the trees.

(iv) Any accidental damage to the trees shall be cleared back to undamaged wood and be treated with a preservative if appropriate.

(v) Ground levels within the spread of the branches of the trees shall not be raised or lowered in relation to the existing ground level, or trenches excavated except in accordance with details shown on the approved plans.

15. No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a plan indicating the positions, design materials and type of boundary treatment to be erected. The boundary treatment shall be completed in accordance with a timetable to be agreed in writing with the Local Planning Authority. Development shall be carried out in accordance with the approved details. The boundary treatment once provided shall not be removed.
16. The design and external appearance details required by Condition 1 above shall include details and/or samples of the proposed materials to be used for all the external surfaces of the building(s).
17. No part of the development hereby approved shall be occupied or brought into use until the highway works shown on drawing number C11032/4A (a copy of which is appended to this decision notice) have been completed and are available for use by the travelling public.
18. Occupation of the roadside service area building, petrol filling station and use of the site as a car park for the travelling public shall not begin until:
 - (i) the existing access road (the C107) has been closed in accordance with details which shall have been submitted to and approved in writing by the Local Planning Authority, and
 - (ii) the new roundabout junction to provide access to the site and the existing Swallow Court employment development as detailed on Tony Gee drawing reference C108188/R/501E has been completed and is capable of use.

The occupation of the roadside service area building, petrol filling station and use of the site as a car park for the travelling public shall not begin until the works as mentioned at 18 (i) and 18 (ii) above have been certified in writing as complete by the Local Planning Authority (who shall consult with the Local Highways Authority and the Highways Agency on behalf of the Secretary of State for Transport).

19. The maximum floorspace (Gross Floor Area - External) of the amenity building hereby permitted shall not exceed a total of 1750 square metres (including the second floor), and that of the proposed filling station kiosk shall not exceed a maximum floorspace (Gross Floor Area - External) of 50 square metres.
20. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order) (with or without modification), no more than 550 square metres (Gross Floor Area) of the total floorspace within the amenity building shall be used for a retail use (including 50 square metres Gross Floor Area which must only be used for the sale of products originating from the region) within Class A1 of the Town and Country Planning (Use Classes) Order 1987 (or any order revoking and re-enacting that Order) (with or without modification).

In addition, no more than 800 square metres (Gross Floor Area) within the amenity building is to be used for the purposes of restaurant/café floorspace (A3 use); no more than 30 square metres (Gross Floor Area) within the amenity building is to be used as a Tourist Information Centre (A2 use), and no more than 210 square metres (Gross Floor Area) is to be used for the purposes of private staff accommodation, administration and storage (B1 use).

21. The retail facilities within the development shall only be part of and ancillary to the principal use of the site as a roadside service area. No retail goods within the retail outlets (within the amenity building and proposed filling station kiosk) shall be sold other than food and drink items; confectionery; newspapers and magazines; tobacco; books and maps; audio and video media; non-prescription medicines and first aid items; flowers; toiletries; and car accessories.
22. A comprehensive Travel Plan shall be developed for all elements of the development hereby permitted. The Travel Plan shall be submitted to and approved in writing by the Local Planning Authority (who shall consult with the Local Highway Authority and the Highways Agency acting on behalf of the Secretary of State for Transport), prior to the occupation of the roadside service area building, petrol filling station and use of the site as a car park for the travelling public.

The Travel Plan shall be prepared in line with prevailing policy, best practice and previously agreed Framework Travel Plan (June 2010) and as a minimum shall include:

- (i) The identification of targets for trip reduction and modal shift
- (ii) The methods to be employed to meet these targets
- (iii) The mechanisms for monitoring and review
- (iv) The mechanisms for reporting
- (v) The penalties to be applied in the event that target are not met
- (vi) The mechanisms for mitigation
- (vii) Implementation of the Travel Plan to an agreed timescale or timetable and its operation thereafter.
- (viii) Mechanisms to secure variations to the Travel Plan following monitoring and review.

A review of the target shall be undertaken within 3 months of the occupation of the development and on an annual basis thereafter, at the time of submission of the annual Travel Plan Report, for a period of five years.

23. No development hereby permitted shall commence until a Construction Management Plan has been submitted and approved in writing by the Local Planning Authority (who shall consult with the Local Highway Authority and the Highways Agency acting on behalf of the Secretary of State for Transport). The plan shall include details of construction vehicle movements, construction operation hours, construction vehicular routes to and from site, construction delivery hours, expected number of construction vehicles per day, car parking for contractors, specific measures to be adopted to mitigate construction impacts in pursuance of the Environmental Code of Construction Practice and a scheme to encourage the use of Public Transport amongst contractors. The development shall be carried out strictly in accordance with the approved construction management plan.
24. No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a construction management plan (to include air quality and other nuisance impact mitigation measures). Work shall then be carried out on site, only in accordance with the approved details.
25. The details required by Condition 1 shall include the provision of electric vehicle charging points. The first use of the development hereby approved shall not begin until the electric vehicle charging points have been provided on site and they shall be retained thereafter.
26. No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority an ecological construction method statement (to include details of how the hedges will be retained and protected for wildlife, the provision and protection of buffer zones, appropriate management, lighting restrictions etc). Work shall then be carried out on site, only in accordance with the approved details.

27. Before the development hereby permitted is commenced specific details relating to the provision of a bus stop on the northern and southern side of the A38 in the vicinity of the application site shall have been submitted to, and approved in writing by, the Local Planning Authority. No other part of the development hereby approved shall be brought into its intended use until the bus stop facilities on both sides of the A38 in the vicinity of the site have been provided in accordance with the approved drawings. Following their provision, these facilities shall thereafter be so retained.
28. No development shall commence on any part of the development hereby permitted until such time as the details of how the County highway known as the C107 shall be closed at its junction with the A38 to vehicular traffic, have been submitted to and approved in writing by the Local Planning Authority. The closure of the access to all traffic, with the exception of pedestrians and cycles, shall be carried out in accordance with the approved details within 24 hours of the new access from the new roundabout on the A38 to the junction of the C107 being open to all traffic and capable of use.
29. This permission shall not constitute an approval of the illustrative site layout plan submitted with the application.
30. The two existing private accesses from the A38 to Jersey Farm shall be permanently closed to vehicular traffic within 24 hours of the new access to Jersey Farm being completed and capable of use.
31. The recommendations in the Extended Phase 1 survey (Devon Wildlife Consultants June 2013), dawn bat survey (Devon Wildlife Consultants July 2013) and Ecological mitigation plan (Devon Wildlife Consultants July 2013) shall be implemented in full in accordance with a timescale that shall be submitted to and agreed in writing by the Local Planning Authority prior to the commencement of work on the site.
32. Prior to the commencement of work on the site the following shall be submitted to and approved in writing by the Local Planning Authority:
 - i) An ecological management plan based on the recommendations in the ecological mitigation plan (DWC June 2010);
 - ii) An external lighting scheme;
 - iii) A programme of monitoring to assess the effectiveness of the mitigation.
33. The development shall be overseen by an ecological clerk of works
34. No development shall begin until details of measures and calculations to demonstrate how a minimum of 13% of the energy requirements for any new buildings on the site shall come from decentralised on-site renewable or low carbon technologies has been submitted to and approved in writing by the local planning authority. Such approved details shall be implemented and operational prior the first use of the building for its permitted use and thereafter shall be retained as such.
35. No development relating to the construction of the development hereby permitted shall begin until evidence that the development is registered with a BREEAM certification body (or any such equivalent national body which measures sustainable building and which replaces that body) and a pre-assessment report (or design stage certificate with interim rating if available) indicating that the development can achieve the final BREEAM level of a minimum of 'very good' has been submitted to and approved in writing by the local planning authority.

No individual building on the site shall be occupied until a final Certificate has been issued certifying that a minimum of BREEAM (or any such equivalent national measure of

sustainable building which replaces that scheme) rating 'very good' has been achieved for this part of the development and evidence of this has been submitted to and approved in writing by the local planning authority.

REASONS FOR CONDITIONS:

1. The application was submitted as an outline application in accordance with the provisions of Articles 3 and 4 of The Town and Country Planning (General Development Procedure) Order, 1995, as amended by Circular 1/06.
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. For the avoidance of doubt and in the interests of proper planning.
5. In the interests of highway safety and the ordered development of the site in accordance with Local Plan Part 3 (Development Management Policies) Policy DM2..
6. To prevent an increase in the risk of flooding downstream of the site in accordance with Mid Devon Core Strategy (Local Plan Part 1) Policy COR11 and Local Plan Part 3 (Development Management Policies) Policy DM2..
7. To ensure that appropriate measures are in place for the long term maintenance and management of the Sustainable Urban Drainage System within the site to ensure that it continues to operate effectively in accordance with Mid Devon Core Strategy (Local Plan Part 1) Policy COR11 and Local Plan Part 3 (Development Management Policies) Policy DM2. .
8. To prevent pollution of the water environment in accordance with Local Plan Part 3 (Development Management Policies) Policies DM2 and DM7.
9. To prevent pollution of the water environment in accordance with Local Plan Part 3 (Development Management Policies) Policies DM2 and DM7.
10. To ensure that the development makes a positive contribution to the character and amenity of the area in accordance with Local Plan Part 3 (Development Management Policies) Policy DM2.
11. To ensure that the development makes a positive contribution to the character and amenity of the area in accordance with Local Plan Part 3 (Development Management Policies) Policy DM2
12. To ensure that appropriate measures are in place for the long term maintenance and management of landscape areas within the site, in the interest of visual amenity of the area in accordance with Local Plan Part 3 (Development Management Policies) Policy DM2.

13. To ensure the development makes a positive contribution to the character and appearance of the area by protecting the existing trees during development in accordance with Local Plan Part 3 (Development Management Policies) Policy DM2.
14. In the interests of preserving the health and vitality of existing trees on the development site, the loss of which would have an adverse effect on the visual qualities of the area in accordance with Local Plan Part 3 (Development Management Policies) Policy DM2.
15. In the interest of preserving the visual amenity of the area in accordance with Local Plan Part 3 (Development Management Policies) Policy DM2.
16. To ensure the materials used make a positive contribution to the visual appearance of the completed development of the area in accordance with Local Plan Part 3 (Development Management Policies) Policy DM2.
17. To maintain the safe and efficient operation of the Strategic Road Network in accordance with Local Plan Part 3 (Development Management Policies) Policy DM2.
18. To ensure that the development is carried out in accordance with the information submitted which forms part of the application and to protect the safe and efficient operation of the local and strategic highway network.
19. To reflect the specific amount of floorspace proposed in the application supporting documents, and to ensure that the facilities are limited in size so as to cater only for the needs of the travelling public without detrimental impact on the safe and efficient operation of the local and strategic highway network in accordance with Mid Devon Core Strategy (Local Plan Part 1) Policy COR18 and Local Plan Part 3 (Development Management Policies) Policy DM20.
20. To reflect the specific amount of floorspace proposed in the application supporting documents, and to ensure that the facilities are limited in size so as to cater only for the needs of the travelling public, and that the retail facilities would not become a retail destination in their own right in accordance with Mid Devon Core Strategy (Local Plan Part 1) Policy COR18 and Local Plan Part 3 (Development Management Policies) Policy DM20.
21. To ensure that the retail facilities only cater for the needs of the travelling public and they do not become a retail destination in their own right encouraging additional trips on the local and strategic road network in accordance with Mid Devon Core Strategy (Local Plan Part 1) Policy COR18 and Local Plan Part 3 (Development Management Policies) Policy DM20.
22. To ensure that the operation of the Strategic Highway Network is protected and that sustainable travel objectives for the site are met and maintained.
23. To ensure the appropriate controls are in place to monitor and manage the site generated construction traffic.
24. To minimise the deterioration of local air quality in particular at the nearest residential dwelling during the construction phase of the development in accordance with Local Plan Part 3 (Development Management Policies) Policies DM2 and DM7.
25. To minimise the deterioration of local air quality in particular at the nearest residential dwelling during the construction phase of the development in accordance with Local Plan Part 3 (Development Management Policies) Policies DM2 and DM7.

26. To minimise the effect of the development on protected species
27. In the interests of highway safety.
28. In the interests of highway safety, to ensure the safe operation of the strategic highway network and to prevent a multiplicity of accesses.
29. For the avoidance of doubt.
30. To minimise the number of accesses onto the public highway and to provide a satisfactory access to Jersey Farm.
31. To prevent, reduce or offset adverse effects on the natural environment.
32. To ensure habitats and species are protected and buffered from the development
33. In order to advise contractors regarding ecological issues and ensure mitigation is implemented correctly.
34. To minimise the carbon footprint of this part of the development in accordance with Policy AL/IN/6 of the Allocations and Infrastructure Development Plan Document (Local Plan Part 2).
35. In order to ensure that the development utilises sustainable design and construction methods in accordance with Policy DM3 of Local Plan Part 3 (Development Management Policies).

INFORMATIVE NOTES:

1. The Environment Agency have advised that:
 - a) In respect of the proposed new private sewage treatment plant to serve the development, an Environmental Permit (Consent to Discharge) will be required. The applicant/agent will need to contact our National Contact & Permitting Centre on 08708 506 506 for the application forms and further advice.
 - b) From the Environment Management (Water Quality) aspect there are no objections in principle to drain the foul effluent from this development via a package treatment plant provided that:
 - (i) The foul drainage is kept separate from clean surface and roof water.
 - (ii) The applicant applies for and is granted a Consent to Discharge from this Agency under the Water Resources Act 1991. The applicant can obtain application forms and further advice by contacting our National Customer and Permitting Centre on 08708 506 506. For information this process can take up to four months to complete and no guarantee can be given regarding the eventual outcome of an application until all the investigations associated with the determination have been completed and an evaluation of the proposal has been made.
2. With regards to Condition 10 (landscaping) above, the following will need to be considered in drawing up the required scheme:
 - a) With regards to the detailed scheme of hedge and tree protection - the eastern and southern boundary lines must be considered as being of particular importance.

b) Landscape planting will be a very important aspect of any development in this area and must seek to reinforce the existing green infrastructure as well as provide wider improvements.

c) Detailed landscape proposals will be required for the entire development to include species lists, sizes and planting specifications. A strong emphasis should be the requirement for long lived specimen trees particularly along the northern and western boundaries.

d) The landscape design will need to respect the local landscape to the south and east. Species choice will reflect locally occurring species and patterns.

e) Consideration should be given to planting a woodland strip along the southern edge of the site to include the lagoon.

f) Tree planting to form a robust screen should be considered around the proposed roundabout off the A38 opposite Swallow Court.

3. You are advised that planning permission does not absolve you from complying with the relevant law, including obtaining and complying with the terms and conditions of any protected species licences required as described in Part IV B of the Circular 06/2005.

REASON FOR APPROVAL OF PERMISSION/GRANT OF CONSENT

This application seeks planning permission to extend the time for implementing an extant planning permission for the provision of motorway service facilities associated with the functioning of J27 of the M5. Since the granting of the earlier planning permission by the Planning Inspectorate both national and local planning policy has changed and the application site is no longer allocated for the provision of a motorway service area. Nevertheless, the need for enhanced and extended facilities at this junction is still considered to exist and both the national and local policies applicable to this type of development accept the principle of the proposal. Subject to the imposed conditions the proposed development would not lead to increased highway safety risks on either the local or strategic highway network and would not have a demonstrably harmful impact upon local ecology and protected species, the amenity and living conditions of neighbouring properties and uses and would not harm the vitality or viability of nearby village and town centres. For these reasons and having regard to all other matters raised the development is in accordance with Mid Devon Core Strategy (Local Plan Part 1) Policies COR1, COR2, COR9, COR10 and COR18, Allocations and Infrastructure Development Plan Document (Local Plan Part 2) Policy AL/IN/6, Local Plan Part 3 (Development Management Policies) Policies DM1, DM2, DM3, DM7, DM8, DM20 and DM28 and the National Planning Policy Framework.

Statement of Positive Working

In accordance with the requirements of article 31 of the Town and Country Planning (Development Management Procedure) (England) Order, 2010, as amended in determining this application the Local Planning Authority has worked proactively and positively with the applicant to ensure that all relevant planning considerations have been properly resolved. This has included discussions with the agent.

In accordance with paragraph 69 of the National Planning Policy Framework, the Local Planning Authority has also involved the community in the consideration of this application.

DEVELOPMENT PLAN POLICIES:

COR1 - Sustainable Communities
COR2 - Local Distinctiveness
COR8 - Infrastructure Provision
COR9 - Access
COR10 - Strategic Transport Networks
COR11 - Flooding
COR18 - Countryside

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

AL/IN/6 - Carbon Footprint Reduction

Mid Devon Local Plan Part 3 (Development Management Policies)

DM1 - Presumption in favour of sustainable development
DM2 - High quality design
DM3 - Sustainable design
DM8 - Parking
DM20 - Rural employment development
DM28 - Green infrastructure in major development

Relevant Plans

The plans listed below are those approved. No substitution shall be made.

101 REV. E - Dated: 19/08/2009 - Site Location Plan
C108188/R/101 REV. F - Dated: 15/03/2010 - Proposed
C108188/R/102 REV. E - Dated: 07/04/2010 - Proposed
C108188/R/103 REV. E - Dated: 07/04/2010 - Proposed
C108188/R/104 REV. C - Dated: 15/03/2010 - Proposed
C108188/R/105 REV. A - Dated: 15/03/2010 - Proposed
C108188/R/106 REV. A - Dated: 15/03/2010 - Proposed
C108188/R/107 REV. A - Dated: 15/03/2010 - Proposed
C108188/R/201 REV. D - Dated: 15/03/2010 - Proposed
C108188/R/202 REV. D - Dated: 15/03/2010 - Proposed
C108188/R/301 REV. D - Dated: 15/03/2010 - Proposed
C108188/R/302 REV. D - Dated: 15/03/2010 - Proposed
C108188/R/401 REV. D - Dated: 15/03/2010 - Proposed
C108188/R/501 REV. E - Dated: 15/03/2010 - Proposed
C108188/R/601 REV. E - Dated: 15/03/2010 - Proposed
C108188/R/801 REV. D - Dated: 15/03/2010 - Proposed
C108188/R/802 REV. E - Dated: 07/04/2010 - Proposed

C108188/R/803 REV. D - Dated: 15/03/2010 - Proposed
C108188/R/951 REV. B - Dated: 15/03/2010 - Proposed
C108188/R/108 REV A - ROUNDABOUT - (Version - **Additional Drawing**) - Proposed
C105039/D/001REV F DRAINAGE - Proposed

A copy of the approved plans will be available on Mid Devon's online planning facility.

Website: <http://www.middevon.gov.uk/planning>

Signed:

A handwritten signature in black ink, appearing to be 'J. J. ...', written over a faint, illegible printed name.

**Head of Planning and Regeneration
Mid Devon District Council**

Date: 17th January 2014

**THIS DECISION IS NOT A DECISION UNDER BUILDING REGULATIONS AND SEPARATE
CONSENT MAY BE REQUIRED. PLEASE CONTACT OUR BUILDING CONTROL
DEPARTMENT FOR MORE INFORMATION.**

Please refer to notes attached

NOTE – Failure to adhere to the details of the approved plans or to comply with the above conditions constitutes a contravention of the Town and Country Planning Act, 1990 in respect of which enforcement action may be taken.

**GENERAL DEVELOPMENT PROCEDURE ORDER 1995
PART 2
TOWN AND COUNTRY PLANNING ACT 1990**

Appeals to the Secretary of State

- If you are aggrieved by the decision of your Local Planning Authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under section 78 of the Town and Country Planning Act 1990.
- If you want to appeal against the Local Planning Authority's decision then you must do so within 6 months of the date of this notice.
- Appeals must be made using a form which you can get from the Planning Inspectorate at Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN or online at www.planningportal.gov.uk/pcs.
- The Secretary of State can allow a longer period for giving notice of an appeal, but he will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.
- The Secretary of State need not consider an appeal if it seems to him that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.
- In practice, the Secretary of State does not refuse to consider appeals solely because the local planning authority based their decision on a direction given by him.

Purchase Notices

- If either the Local Planning Authority or the Secretary of State refuses permission to develop land or grants it subject to conditions, the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.
- In these circumstances, the owner may serve a purchase notice on the Council (District Council, London Borough Council or Common Council of the City of London) in whose area the land is situated. This notice will require the Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.
- In certain circumstances, a claim may be made against the Local Planning Authority for compensation, where permission is refused or granted subject to conditions by the Secretary of State on appeal or on a reference of the application to him. The circumstances in which such compensation is payable is set out in Section 114 of the Town and Country Planning Act 1990.

Major Applications with no Decision

Members are asked to note that some major applications will be dealt with under the delegation scheme. Members are also requested to direct any questions about these applications to the relevant case officer. It was resolved at the meeting of Planning Committee on 20th February 2013 that any ground mounted solar PV schemes recommended for approval will be brought to Planning Committee for determination.

Item No.	Weeks	TARGET DATE	REFVAL	PROPOSAL	LOCATION	NAME	Expected Decision Level	
							Delegated	Committee
1	1	24/07/2017	17/00652/MOUT	Outline for a mixed development of 30 dwellings, commercial buildings, access, public open space, landscaping, and associated works	Land at NGR 303116 110179 (NE of Rydon House) Willand Devon	Miss Thea Billeter	COMM	COMM
2	2	19/07/2017	17/00648/MFUL	Extension to slurry store (1150 sq. m.)	Land at NGR 300528 112350 (Bycott Farm) Lower Town Halberton Devon	Mr Daniel Rance	DEL	
3	8	05/06/2017	17/00348/MOUT	Residential development of up to 326 dwellings; 8.6 hectares of land made available to facilitate the relocation of Crediton Rugby Club; up to 1.1 hectares of land safeguarded for the delivery of a primary school; access arrangements from A3072 (Exhibition Way); pedestrian and cycle access on to Pounds Hill/Stonewall Cross junction, Old Tiverton Road and Pedlerspool Lane; landscaping and area of public open space; and other associated infrastructure and engineering operations	Land at NGR 284185 101165 (Creedy Bridge) Crediton Devon	Mr Simon Trafford	COMM	COMM
4	9	30/05/2017	17/00333/MFUL	Erection of an agricultural storage building (1080 sq.m.)	Land and Buildings at NGR 287999 104878 (Hawthorn Gardens) Stockleigh Pomeroy Devon	Mr Simon Trafford	DEL	
5	10	25/05/2017	17/00300/MOUT	Outline for the erection of 30 dwellings and new vehicular and pedestrian accesses	Land at NGR 305578 112053 Uffculme Road Uffculme Devon	Miss Thea Billeter	COMM	COMM
6	10	24/05/2017	17/00173/MOUT	Outline for the erection of up to 28 dwellings and up to 90 sq m of A1 retail floorspace, including incidental open space and car parking	Land at NGR 287483 106365 (White Cross) Cheriton Fitzpaine Devon	Mr Simon Trafford	COMM	COMM
7	14	24/04/2017	17/00106/MOUT	Erection of 16 dwellings with access and associated works	Land at NGR 306965 113252 (North of Belle Vue) Ashley Road Uffculme Devon	Ms Tina Maryan	COMM	COMM

<i>Item</i> <i>No.</i>	<i>Weeks</i>	<i>TARGET DATE</i>	<i>REFVAL</i>	<i>PROPOSAL</i>	<i>LOCATION</i>	<i>NAME</i>	<i>Expected Decision Level</i>	
							<i>Delegated</i>	<i>Committee</i>
8	17	04/04/2017	17/00001/MOUT	Outline for the erection of 7 dwellings, improvements to access and change of use of agricultural land to community facility	Land and Buildings at NGR 294119 106891 (Adjacent to Highfield) Bickleigh Devon	Miss Lucy Hodgson	COMM	COMM
9	17	04/04/2017	16/01988/MOUT	Outline for the erection of up to 74 dwellings	Land at NGR 301106 107155 Knowle Lane Cullompton Devon	Miss Thea Billeter	COMM	COMM
10	20	10/03/2017	16/01899/MARM	Reserved Matters application to revise the layout for plots 164-176 as approved under planning references 12/00277/MOUT and 14/01047/MARM to include an addition 4 dwellings (increase from 13 dwellings to 17 dwellings), and associated access road and drainage infrastructure	Land at NGR 294659 113730 (Farleigh Meadows) Washfield Devon	Mr Simon Trafford	DEL	DEL
11	21	06/03/2017	16/01888/MOUT	Outline for the erection of up to 40 dwellings, formation of 64 space car park to service Copplestone Railway Station, public open space, vehicular access from Shambles Drive, pedestrian links and associated infrastructure	Land at NGR 276566 103177 (Old Abattoir Site) Shambles Drive Copplestone Devon	Mr Simon Trafford	COMM	COMM
12	24	15/02/2017	16/01772/MOUT	Outline for the erection of upto 40 dwellings (including affordable housing), public open space and associated infrastructure	Land at NGR 313382 113489 Culmstock Road Hemyock Devon	Ms Tina Maryan	COMM	COMM
13	26	01/02/2017	16/01707/MOUT	Outline for the erection of 41 dwellings and formation of vehicular access	Land at NGR 295527 113644 (South Of Lea Road) Tiverton Devon	Ms Tina Maryan	COMM	COMM
14	32	20/12/2016	16/01424/MOUT	Outline for the development of up to 330 dwellings together with public open space, associated infrastructure and other works including vehicular access, internal roads, pedestrian/cycle links and highway improvements (Revised scheme)	Land at NGR 298671 113603 Uplowman Road Tiverton Devon	Mrs Christie McCombe	COMM	COMM
15	152	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	Mrs Christie McCombe	COMM	COMM

LIST OF APPEAL DECISIONS FROM 18 FEBRUARY 2017 to 27 APRIL 2017

Application No	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
15/01775/CLU	Certificate of Lawfulness for existing use of caravan as residential dwelling for a period in excess of 10 years	Land and Buildings at NGR 306655 114226 (Kerrells) Burlescombe Devon	Refuse Certificate of Lawful Use	Delegated Decision	Refuse permission	Public Inquiry	Appeal Dismissed

Summary of Inspectors Comments

The main issue was whether, on the balance of probability, the caravan on the site has known as Caravan A had been occupied as a permanent residence continuously for a period in excess of 10 years. There is no dispute that the caravan was stationed on the site from before the relevant date, nor that the appellant stayed on the site from time to time during lambing or shearing. The Inspector considered evidence given to the inquiry by the appellant and witnesses on her behalf and from officers and a neighbour on behalf of the Council, in addition to written evidence submitted to the appeal. Whilst the Inspector attached due weight to the sworn testimony for the appellant, and stated that he must consider all the evidence together, and found the simplicity of the evidence given by the neighbour on behalf of the Council more compelling.

There were also discrepancies over evidence as to where the appellant had lived, who had lived/stayed on the site when, the nature of her relationship with her partner, and the difference in the domestic appearance of the site from 2014 onwards compared with the agricultural nature of the site prior to that date.

The Inspector concluded that the appellant had not proved on the balance of probability that the use of the land for the stationing and occupation of one caravan/mobile home as a permanent residence commenced on or before 5 November 2005 and this use then continued for at least 10 years without significant interruption. The Inspector considered it probable that the appellant lived elsewhere, at least for significant periods

Application No	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
15/00100/NUCU	Appeal against Enforcement Notice	Kerrells Down Farm Buildings Burlescombe Tiverton Devon EX16 7LF				Enforcement Public Inquiry	Appeal Dismissed

Summary of Inspectors Comments

This appeal was linked to the appeal on 15/01775/CLU, although the enforcement notice related to two caravans: Caravan A (the subject of the CLU appeal) and Caravan B, a more recent park home. To succeed, the appellant must prove on the balance of probability that the use of the land changed from agriculture to a mixed use comprising agriculture and use as a caravan site for human habitation on or before 8 September 2006 and that the mixed use then continued for at least 10 years without any significant interruption. The appellant pointed out that section 1(4) of the Caravan Sites and Control of Development 1960 defines a caravan site as land on which a caravan is stationed for the purposes of human habitation. The appellant submitted that even if the caravan has not been occupied continuously for the relevant 10 year period, a caravan has been on site for the purposes of human habitation throughout the relevant period.

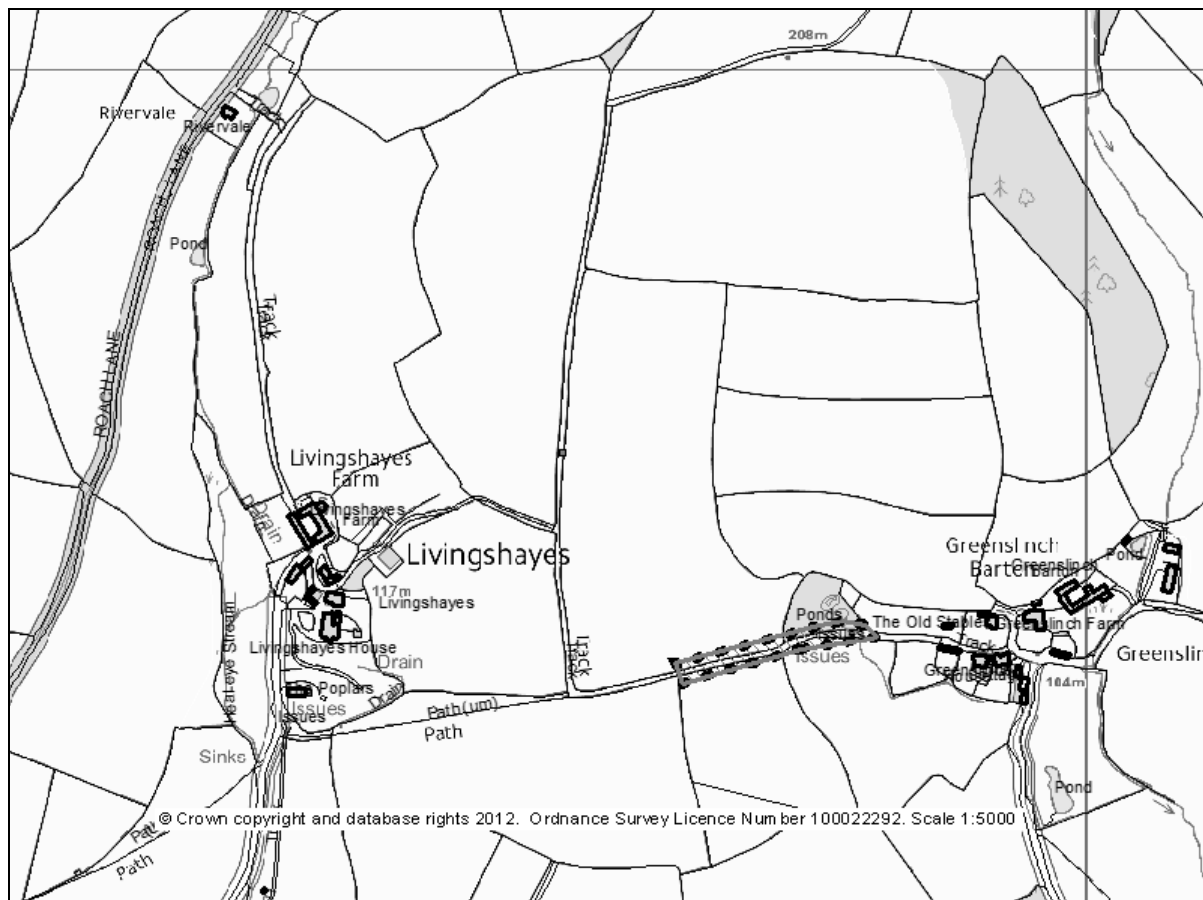
The Inspector pointed out that a caravan is only a caravan so long as it is designed or adapted for human habitation. However, in order to acquire immunity for use as a caravan site for human habitation, actual use is required; a caravan needs to have been continuously inhabited on the site for 10 years without any significant interruption. Whilst, for some purposes, a person may be deemed to remain in occupation of a dwelling if they still have their personal effects in it, in this context, actual occupation is necessary.

The enforcement notice requires the removal of all residential caravans and the Inspector pointed out that this would not prevent the stationing of caravans on the site for purposes ancillary to the lawful agricultural use. The Inspector agreed that 6 months was too short a period for compliance with the enforcement notice and amended its terms to refer to 9 months in which to comply. Subject to this variation, the enforcement notice is upheld.

Application No. 17/00001/TPO

Grid Ref: 103663 : 296539

Location: Track at NGR
296538 103662
(Greenslinch Lane)
Silverton Devon



REPORT OF THE HEAD OF PLANNING AND REGENERATION

Reason for Report:

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

RECOMMENDATION(S)

That the Tree Preservation Order is confirmed

Relationship to Corporate Plan:

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

Financial Implications:

None

Legal Implications:

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

Risk Assessment:

None

Consultation carried out with:

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

1.0 DESCRIPTION/SITE HISTORY

This Tree Preservation Order was made in response to a request to Mid Devon District Council by local residents. Authorities can either initiate the process of applying a Tree Preservation Order themselves or in response to a request made by another party.

The Tree Preservation Order was requested following the felling of a significant amount of trees along both edges of Greenslinch Lane. The trees appear to have been removed to implement a track improvement scheme.

2.0. AMENITY EVALUATION

- 2.1 The trees add good landscape value to the surrounding area; the public footpath seems to be a popular walking area. Following an amenity evaluation of the trees, it was deemed necessary to place further protection on them, in the form of a Tree Preservation Order. An amenity score of 17 was afforded to the trees using the Poole System evaluation system, any tree that scores more than 15 merits consideration for a Tree Preservation Order.

3.0 REPRESENTATION

- 3.1 One objection to the TPO has been made on the following grounds:

- * The trees are under good silviculture management
- * The land is well managed farm land, with a proven history of tree planting and hedgerow improvement and conservation achievements
- *The TPO Order is an area category
- *The whole of the footpath is not covered

4.0 MATERIAL CONSIDERATIONS AND RESPONSE TO THE OBJECTIONS

- 4.1 A large section of the trackway trees, which appear to have been made up of trees of a similar age and size as to those subject to the Tree Preservation Order, were felled in order to improve an existing trackway. As the trees root systems were kept mainly intact, this was not a breach of the Hedgerow Regulations.

However it could be argued that the standard of work was poor. Although it is acknowledged that within the next 5 years the area is likely to form a new informal hedge.

Additional planting of native species on the newly made earth banks would have enhanced the species diversity, it may have also been possible to selectively lay some of the pre-existing species.

- 4.2 The Tree Preservation Order does not serve to stop good management. There is nothing stopping the landowner from applying for future works to the trees in question should it be deemed necessary as a part of the overall management plan for the farm.
- 4.3 The Tree Preservation Order applies to the remaining trees along the track sides. Currently the TPO is an Area Order. While it is recognised that an area category is intended for short-term protection in an emergency and may not be capable of providing appropriate long-term protection, there is no recommended guidance on how soon an area TPO should be re assessed but it is acknowledged that LPA are advised to fully assess and reclassify the trees in an area order.
- 4.4 The whole length of the footpath has not been included in the Tree Preservation Order. The part of the track which has been felled/coppiced will take a number of

years to return to a treescape and it is possible that the farmer would prefer to maintain the tracksides as a hedgerow rather than allowing it to regenerate back into trees. As such a Tree Preservation Order would not be appropriate for this area now. The remaining trackside trees have been included in the order.

- 4.5 Authorities may only use an Order to protect anything that may ordinarily be termed a tree. This would not normally include shrubs, but could include, for example, trees in a hedge or an old hedge which has become a line of trees of a reasonable height.
- 4.6 It may be expedient to make an Order if the authority believes there is a risk of trees being felled, pruned or damaged in ways which would have a significant impact on the amenity of the area.

5.0 CONCLUSION

The Tree Preservation does not serve to stop good Silviculture Management. Whilst it is acknowledged that the farmer has achieved great things with hedgerow and environmental projects on the farm, the actual removal of the pre-existing line of trees triggered the need to consider protecting the remainder of this landscape feature.

Contact for any more information	Cathy Lynch, Tree Officer 01884 234304
Background Papers	
File Reference	17/00001/TPO
Circulation of the Report	Cllrs Richard Chesterton Members of the Planning Committee

PLANNING COMMITTEE

DATE: 17TH MAY 2017

REPORT OF MRS JENNY CLIFFORD, THE HEAD OF PLANNING AND REGENERATION

COMMITTEE DECISIONS 2016/17 WHICH WERE NOT IN AGREEMENT WITH OFFICER RECOMMENDATION.

Cabinet Holder Cllr Richard Chesterton
Responsible Officer Mrs Jenny Clifford, Head of Planning and Regeneration

Reason for Report: To provide information where the Planning Committee has made decisions not in agreement with officer recommendation.

RECOMMENDATION: That the report be noted.

Relationship to Corporate Plan: Planning decision making is relevant to achieving corporate priorities: thriving economy, better homes, empowering our communities and caring for our environment.

Financial Implications: Risk of award of costs against the Council at appeal. See below.

Legal Implications: Planning authorities are not bound to accept the recommendations of their officers. However if officer's professional or technical advice is not followed, authorities need to show reasonable planning grounds for taking a contrary decision and produce relevant evidence on appeal to support the decision in all respects. If they fail to do so, costs may be awarded against the authority at appeal.

Risk Assessment: Risks associated with decisions proposed to be made contrary to officer recommendation are set out in an implications report that is brought before Planning Committee before the final decision is made. Local Planning Authority decision making by both officers under delegated authority and by Planning Committee must be robust, justified and capable of being defended at appeal.

- 1.0 Attached at **Appendix 1** is a summary of applications where the Planning Committee have made decisions not in agreement with officer recommendations. The report covers the period from 1st April 2016 until 31st March 2017. (Please note that several applications appear more than once on the attached list).
- 2.0 The number of cases during the 16/17 financial year was 11, 9 of which were Ward Member call ins. Comparison with the figures for previous years is as follows and indicates a rise since 2014:

2009	2010	2011	2012	2013	2014	2015/16	2016/17
8	10	6	11	12	3	7	11

9 were granted planning permission with conditions and 2 were refused permission contrary to officer recommendation. The 2 refusals are currently in the process of being appealed.

- 3.0 In accordance with the agreed protocol, cases where Members wish to refuse permission contrary to an Officer recommendation for approval requires a deferral of the item for the receipt of a report setting out the implications of the proposed decision

and the reasons given with Members indicating the decision that they are minded to make. Since April 2016, if Members wish to approve contrary to an officer recommendation to refuse permission, the protocol does not require that the item be deferred. However Members will need to give clear reasons for granting permission taking into account the requirement for the determination of planning applications to be in accordance with the development plan unless any other material planning considerations indicate otherwise. 9 such overturn cases were recorded in the last financial year.

Contact for any more information	Head of Planning and Regeneration (Mrs Jenny Clifford) 01884 234346
Background Papers	Planning Committee agendas and minutes 2015 - 2016
File Reference	None.
Circulation of the Report	Members of Planning Committee, Cllr Richard Chesterton.

Decision Against Officer Recommendation from 01/04/2016

Date of Planning Committee	Application No.	Description	Location	HOP Recom'd	Planning Committee Decision	Member Call-in	Appeal Status
06/04/2016	15/01822/MFUL	Erection of 45 Extracare apartments and provision of associated communal facilities, car parking and landscaping, renovation of Alexandra Lodge following demolition of former stable block and extensions	Alexandra Lodge 5 Old Road Tiverton Devon EX16 4HQ	Refuse permission	Permitted with Conditions to Discharge	Yes	
06/04/2016	15/01822/MFUL	Erection of 45 Extracare apartments and provision of associated communal facilities, car parking and landscaping, renovation of Alexandra Lodge following demolition of former stable block and extensions	Alexandra Lodge 5 Old Road Tiverton Devon EX16 4HQ	Refuse permission	Permitted with Conditions to Discharge	Yes	
06/04/2016	15/01824/LBC	Listed Building Consent for the erection of 45 Extracare apartments and provision of associated communal facilities, car parking and landscaping, renovation of Alexandra Lodge following demolition of former stable block and extensions	Alexandra Lodge 5 Old Road Tiverton Devon EX16 4HQ	Refuse Listed Building Consent	Permitted with Conditions to Discharge		
06/04/2016	15/01824/LBC	Listed Building Consent for the erection of 45 Extracare apartments and provision of associated communal facilities, car parking and landscaping, renovation of Alexandra Lodge following demolition of former stable block and extensions	Alexandra Lodge 5 Old Road Tiverton Devon EX16 4HQ	Refuse Listed Building Consent	Permitted with Conditions to Discharge		
20/04/2016	15/01604/MFUL	Erection of 5 poultry units (5040 sq. m) and biomass boiler unit; formation of attenuation pond, access track, and hardstanding; landscaping; and associated infrastructure	Land at NGR 288027 116786 (Gibbett Moor Farm) Templeton Devon	Grant permission subject to conditions.	Refuse permission	Yes	Appeal In Progress
11/05/2016	16/00108/OUT	Outline for the erection of dwelling	Land at NGR 304865 115568 Corner of Brimstone Lane Westleigh Devon	Refuse permission	Permitted with Conditions to Discharge	Yes	

Date of Planning Committee	Application No.	Description	Location	HOP Recom'd	Planning Committee Decision	Member Call-in	Appeal Status
11/05/2016	16/00108/OUT	Outline for the erection of dwelling	Land at NGR 304865 115568 Corner of Brimstone Lane Westleigh Devon	Refuse permission	Permitted with Conditions to Discharge	Yes	
06/07/2016	05/02315/OUT	Outline for the erection of an agricultural worker's dwelling (Re-submission)	Land At NGR 316000 114353 (adj. Shalom) Caller's Lane Clayhidon Cullompton Devon EX15 3PH	Refuse permission	Grant permission	Yes	
06/07/2016	16/00588/HOU	Erection of first floor extension with juliet balcony, detached garage and formation of new access to replace existing	22 Turnpike Sampford Peverell Tiverton Devon EX16 7BN	Refuse permission	Grant permission	Yes	
05/10/2016	16/00180/FULL	Erection of 2 dwellings following demolition of existing dwelling (Revised Scheme)	19 Exeter Road Silverton Exeter EX5 4HX	Subject to the provision of a S106 Del	Refuse permission	Yes	
04/11/2017	16/00924/MOU	Outline for the erection of up to 60 dwellings and means of access	Land and Buildings at NGR 277744 102582 (East of Dulings Farm) Copplestone Devon	Subject to the provision of a S106 Com	Refuse permission	Yes	Appeal In Progress
04/11/2017	16/01232/FULL	Conversion of a redundant rural building to a residential dwelling	Redgates Farm Bickleigh Tiverton Devon EX16 8HF	Refuse permission	Permitted with Conditions to Discharge	Yes	
01/03/2017	17/00073/FULL	Retention of building works and new work to provide a dwelling (Revised scheme)	Land and Buildings at NGR 282555 99153 (Beare Mill) Crediton Devon	Refuse permission	Permitted with Conditions to Discharge	Yes	
01/03/2017	17/00073/FULL	Retention of building works and new work to provide a dwelling (Revised scheme)	Land and Buildings at NGR 282555 99153 (Beare Mill) Crediton Devon	Refuse permission	Permitted with Conditions to Discharge	Yes	
29/03/2017	17/00090/ARM	Reserved Matters for the erection of a dwelling following Outline approval 16/00108/OUT	Land at NGR 304865 115568 Corner of Brimstone Lane Westleigh Devon	Refuse permission	Grant permission		

PLANNING COMMITTEE

DATE: 17TH MAY 2017

REPORT OF MRS JENNY CLIFFORD, THE HEAD OF PLANNING AND REGENERATION

APPEAL DECISIONS AND PERFORMANCE 16/17

Portfolio Holder Cllr R J Chesterton
Responsible Officer Mrs Jenny Clifford, Head of Planning and Regeneration

Reason for Report: To provide information on the outcome of planning appeals for the financial year 16/17.

RECOMMENDATION: That the report be noted.

Relationship to Corporate Plan: Planning decision making is relevant to achieving corporate priorities of homes, economy, community and environment.

Financial Implications:

Planning appeals can prove expensive to the Council in terms of: Staff resources both within the Planning Service and other sections such as Legal, Financially if specialist consultant assistance, expert witnesses and external legal advocacy are required. This is more likely at public inquiry. There are also financial implications for the Council at appeal if an appellant can prove the Council has acted unreasonably. If so, the Planning Inspectorate can require that the Council pay the appellant's appeal costs.

Legal Implications:

By their nature appeals involve independent assessment by the Planning Inspectorate of the case and the Council's decision. The Council needs to ensure that its planning decision making is robust in order to reduce risk of challenge, maximise appeal success and reduce the impact of appeals on budgets.

Risk Assessment:

Appeal statistics provide a useful check on decision making by comparing appeal outcomes with those nationally, the number of appeals and outcomes with previous years and whether any costs have been awarded against the Council on the basis of unreasonable behaviour. A risk to the Council are the increasingly tight thresholds that the Government is seeking to apply over appeal performance as an indicator of the quality of planning application decision making, particularly in respect of major applications. Whilst such threshold requirements are currently being met, having been be tightened, there is increased risk of designation as underperforming as a result of percentage of major applications overturned at appeal over a 2 year period. This is particularly the case in a current Mid Devon planning environment with lack of a 5 year housing land supply and accordingly increased major residential application activity on non-allocated sites.

Consultation carried out with:

None.

1.0 APPEAL PERFORMANCE AND NATIONAL COMPARISON.

1.1 Attached at **Appendix 1** is a summary of planning appeals determined between 1st April 2016 – 31st March 2017. 32 appeals were determined within that period.

0		Withdrawn
6	(19%)	Allowed
1	(3%)	Allowed in part
25	(78%)	Dismissed

1.2 The total number of appeals is similar with the last few years. Planning Inspectorate statistics for the whole of the financial year 201/17 are not yet available. Those issued to date (quarters 1, 2 and 3) of this financial year indicate the percentage of all appeals allowed nationally (England) at an average of between 32% - 34%. The figure for all allowed appeals in Mid Devon over the whole of 2016/17 was 22%. This indicates the appeal performance of this Council was stronger than that for England as a whole over this period with a higher success rate.

1.3 3 appeal decisions between 1st April 2016 and 31st March 2017 related to major applications. Of those 1 was allowed and 2 were dismissed.

2.0 ALLOWED APPEALS.

2.1 Of the 6 appeals allowed, 2 of these were refused by Planning Committee contrary to officer recommendation:

15/01622/FULL Erection of agricultural work's dwelling and an agricultural livestock building, land at Ten Oaks Farm, Clayhidon.

16/01074/FULL Retention of an agricultural farm office, Thorne Farm, Stoodleigh, Tiverton.

2.2.1 The other allowed appeals were either dealt with under delegated powers or related to enforcement cases. One notable appeal decision was for 60 dwellings west of Harvesters, Uffculme. Members will recall this raised 5 year housing land supply issues. Details of all are given in the attached appendix.

3.0 DISMISSED APPEALS.

3.1 Of the 25 dismissed appeals, 3 were determined or considered by Planning Committee:

13/00654/FULL Erection of 50kW wind turbine with a maximum blade tip height of 34.2m and hub height of 24.6m and associated infrastructure (revised scheme), land at Philham Farm, Chawleigh.

15/01108/MFUL Installation of ground mounted photovoltaic solar farm to generate up to 6MW of power with associated infrastructure, land at Wiseburrow Farm, Burlescombe.

15/01632/FULL Erection of a dwelling, Jersey Cottage, Sampford Peverell.

3.2 20 were considered by officers under delegated powers.

4.0 COMPARISON WITH PREVIOUS PERIODS.

5.1 Comparison with the last reports on this subject giving appeal figures recorded is as follows:

1st January - 31st December 2009 37 appeals, 23 (62%) dismissed.

1st January - 31st December 2010 28 appeals, 22 (78%) dismissed.

1st January – 31st December 2011 37 appeals, 22 (60%) dismissed

1st January – 31st December 2012 33 appeals, 16 (48.5%) dismissed

1st January – 31st December 2013 37 appeals, 20 (54%) dismissed

1st January – 31st December 2014 42 appeals, 27 (64%) dismissed

1st April 2015 – 31 March 2016 34 appeals, 24 (71%) dismissed

1st April 2016 – 31 March 2017 32 appeals, 25 (78%) dismissed

The percentage of appeals dismissed has strengthened in comparison with recent years.

5.0 GOVERNMENT TARGETS FOR APPEAL PERFORMANCE.

5.1 The Government seeks to improve the speed and quality of planning decision making. In the event that the Secretary of State views that a Local Planning Authority is not adequately performing its function of determining applications it will be designated as underperforming and special measures applied. The performance of each authority in terms of speed and quality of decision making is monitored. The measures now used to assess the quality of decision making is the average percentage of decisions on applications for all major development that have been overturned on appeal. The threshold for inadequate performance by a Local Planning Authority over major applications is if more than 10% of all major application decisions made over the previous two years have been overturned at appeal. This target has been tightened by the Government from 20% to 10%. The Government's assessment period is over a 2 year period from the April 2015 to March 2017.

5.2 The Government has also introduced a second measure of the quality of decision making: no more than 10% of all non-major application decisions made over the previous two years being overturned at appeal. The Government's assessment period also from the April 2015 to March 2017. This tightening in the performance regime reinforces the need for robust decision making that can be successfully defended. Update information on performance against both these appeal performance indicators will be given verbally at the meeting.

5.3 For Members information where a Local Planning Authority is designated as underperforming it is required to produce an action plan to address areas of weakness. It also grants applicants for major development a choice over whom to submit their application to. It introduces the ability to apply for planning permission directly to the Planning Inspectorate as an alternative to applying to the Local Planning Authority. Application assessment and decision making is therefore removed from the local level. In these circumstances the Local Planning Authority does not receive an application fee, but is still responsible for certain administration functions associated with the applications.

Contact for Information: Jenny Clifford, Head of Planning and Regeneration
01884 234346

Circulation of the Report: Cllr Richard Chesterton
Members of Planning Committee

List of Background Papers: Planning Committee agendas and minutes 2016/17.
DCLG Improving planning performance – Criteria for designation November 2016
DCLG Planning performance and the planning guarantee –Government response to consultation. June 2013
DCLG Technical consultation on implementation of planning changes February 2016
Growth and Infrastructure Act 2013
Planning Inspectorate Statistical Report: England 2016/17, Quarters 1, 2 and 3

ANNUAL LIST OF APPEAL DECISIONS FROM 1 April 2016 to 31 March 2017

Application No	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
13/00654/FULL	Erection of a 50kW wind turbine with a maximum blade tip height of 34.2m and hub height of 24.6m, and associated infrastructure (Revised scheme)	Land at NGR 272259 114205 (Philham Farm) Chawleigh Devon	Refuse permission	Committee Decision	Refuse permission	Written Representations	Appeal Dismissed

Summary of Inspectors Comments

This case is unusual and significant in that it represents the first wind turbine appeal decision made in the Mid Devon District in the light of the Written Ministerial Statement (WMS) made by the Secretary of State on 18 June 2015 to be applied to all proposed wind energy developments so that local people have the final say on wind farm application'. This proposal involves the erection of a 50kW Endurance wind turbine on an organic dairy farm near Chawleigh. The hub height of the wind turbine would be 24.6m above ground level, and the blades 9.6m long. The height of the structure to the tip of the blades, in an upright position, would be 34.2m. The application presented a revised scheme following an earlier refusal by the Local Planning Authority for a similar scheme. The revised scheme sought to slightly re-position the proposed site from that previously submitted; it also proposed more limited infrastructure works, and also provided additional supporting information relating to potential landscape and noise and heritage asset impact impacts. The scheme was refused by the Local Planning Authority in December 2013 on the grounds of the considered detrimental landscape and visual impacts and its considered harm to the setting of heritage assets in the area. The Appeal was initially dealt with by a Government Planning Inspector who was also required to take into account the WMS of June 2015 and transitional arrangements to be applied. In his own decision the Inspector concluded that the proposal would not cause significant harm to the setting or significance of identified heritage assets or to the living conditions of local residents through visual impact or noise. Whilst it was recognised that the proposal would have a harmful impact on the landscape, such harm was adjudged, by the Inspector, to be not so significant as to outweigh the benefits to be brought through the generation of renewable energy or in assisting the economic performance of the rural enterprise. In his own specific consideration of the WMS, the Planning Inspector opined, given (in his view) the impacts of the scheme are, or could be, made acceptable (as required by the NPPF) that 'must mean that the planning impacts identified by local communities have been addressed' and on that basis, 'the WMS did not justify a decision that would run contrary to the development plan and the Framework'. The Inspector accordingly recommended that the appeal be allowed subject to conditions.

However, on 7 October 2015, in exercise of his powers under s79 and para. 3 of Schedule 6 of the Town and Country Planning Act 1990, the Secretary of State (SoS) directed that he would determine the appeal. In his statement the SoS has noted and accepted much of the Inspector's own conclusions regarding potential landscape, heritage and other impacts. However, with specific regard to consideration of the WMS, and the considerations to be made relating to local community concerns, the SoS concludes that the planning impacts as identified by affected local communities have not been addressed in the circumstances of the case. Accordingly, he considers that the transitional arrangements within the WMS have not been satisfied and he gives substantial weight to this conflict. Given this, the SoS does not agree with the Inspector's overall recommendation that the appeal should be allowed: Decision: Appeal dismissed by SoS.

Application No	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
14/01650/CLU	Certificate of Lawfulness for the existing use of land for residential purposes and the siting of 1 caravan	The Caravan Woodclose Burlescombe Tiverton Devon EX16 7JU	Grant Certificate of Lawful Use	Delegated Decision	Grant permission	Public Inquiry	Appeal Dismissed

Summary of Inspectors Comments

The appeal was in respect of refusal of a certificate of lawfulness for residential use of land associated with a mobile home. A certificate of lawfulness was granted for the mobile home but this did not include the entire site, which was a former horticultural nursery with glasshouses still apparent on the site. The main issue in determination of this appeal was the extent of the planning unit and its established use, and whether the appellant was entitled to site the mobile home anywhere on the site and use the site wholly for residential purposes. The Inspector sets out a number of arguments and case law in this respect and concludes that the entire site is one planning unit in mixed use for agriculture and the stationing of a caravan/mobile home. The Inspector concluded that Mid Devon was correct to refuse the application on the basis that the entire site was not in residential use.

15/00108/MOUT	Outline application for up to 60 dwellings with access onto Uffculme Road, with all other matters reserved	Land at NGR 305658 112080 (West of The Harvesters) Uffculme Road Uffculme Devon	Refuse permission	Delegated Decision	Refuse permission	Public Inquiry	Allow with Conditions
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Summary of Inspectors Comments

The main issue in determination of this application was whether, having regard to the development plan, the NPPF, the housing land supply of the Council, and the scale/location of the development, the appeal scheme would constitute a sustainable form of development. The scheme was for 60 dwellings at Uffculme, outside of settlement limits, where it was being argued by the developer that due to under delivery of housing, Mid Devon does not have the required 5 year housing land supply and that permission should be granted. The Inspector concluded that Mid Devon does not currently have a deliverable 5 year housing land supply. He also concluded that there has been a persistent under delivery of housing (although he acknowledged that this reflects the economic position nationally), and therefore a buffer of 20% should be applied. He concluded that the supply of housing policies in the Core Strategy are inconsistent National Planning Policy Framework as they were adopted before the framework and based on outdated figures and methods of calculated. These policies are therefore not up to date and should be given limited weight. In terms of the sustainability of the development itself, the Inspector concluded that the development would deliver social benefits through market and affordable dwellings, promote economic activity, and no environmental harm was identified. The Inspector considered the development to be sustainable and that planning permission should be granted.

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

Summary of Inspectors Comments

Proposed erection of single detached 'underground' dwelling.

The main issues are:-

- 1 The effect of the proposal on the living conditions of the occupiers of nearby properties, having particular regard to loss of privacy;
- 2 The effect of the proposed development on the character and appearance of the conservation area and on the setting of nearby listed buildings;
- 3 Whether sufficient information has been provided regarding drainage and flood risk matters; and
- 4 Whether the proposal would provide an adequate amount of car parking provision.

The proposed part underground dwelling is to be located to the rear of 12C Brook Street, the council consider the roof terrace to be 1.5m above existing ground level. This is not contested. Due to its elevated location this would create a considerable overlooking opportunity of neighbouring gardens. In addition the proposal is in close proximity to Webbers Court with clear views to the front windows, therefore a significant loss of privacy.

A condition was suggested by the applicant that the terrace could only be used for maintenance. The issue with this is that this cannot be monitored. The inspector agreed, and would fail the best for a condition.

Therefore the proposal would give rise to unacceptable loss of privacy for the occupiers of surrounding properties.

Refusal was also on insufficient information in order to assess the impact on heritage assets.

However the inspector considers sufficient information was submitted with the application along with further information supplied at the appeal.

Both sides made reference to a previous appeal for a dwelling on the site. although different the inspector at the time considered the new dwelling would neither preserve nor enhance the character of the BCA.

However the mainly subterranean design of the building would have little if any, inter-visibility between the proposed and the Grade I church. Therefore the proposed would preserve the setting.

The solar panels, glass balustrade would introduce a visually prominent design and have a negative impact on the appearance of this part of the BCA, and represent a significant incursion. There are no public benefits to outweigh this harm with the proposal being in conflict with policy.

The inspector concluded that as the council had no substantive information regarding drainage that the proposal would comply with policy in terms of flooding.

Although not complying with DM8 1.7 parking spaces due to the central location, the fact that DCC highways did not object, and no parking survey had been undertaken by the council for the area. The Inspector concluded the proposal would provide an appropriate level of parking.

Planning Balance and Conclusion

In terms of benefit the proposal increases the supply of housing, along with innovative design incorporating some substantial features. However in terms of negative aspects, the proposal would unacceptably affect the living conditions of the occupiers of neighbouring properties in terms of loss of privacy, and it would give rise to less than substantial harm to the significance of designated heritage assets.

in the context of paragraph 49 of the Framework, it is concluded that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits.

Application No	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
15/01397/FULL	Erection of 2 storey extension	15 Churchlands Bow Crediton Devon EX17 6JF	Refuse permission	Delegated Decision	Refuse permission	Householder Appeal	Allow with Conditions

Summary of Inspectors Comments

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

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

The reasons the appeal was allowed is summarised below:

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

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

15/01108/MFUL	Installation of a ground-mounted photovoltaic solar farm to generate up to 6MW of power (site area 11ha) with associated infrastructure including inverter cabins, sub station buildings, access tracks, fencing and CCTV (Revised scheme)	Land at NGR 307922 118303 (Wiseburrow Farm) Burlescombe Devon	Grant permission subject to conditions.	Committee Decision	Refuse permission	Written Representations	Appeal Dismissed
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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 issue was whether the benefits of the scheme, including the production of electricity from a renewable source, outweighed any harmful effects, having particular regard to the impacts upon the character and appearance of the area, the settings of designated heritage assets, and the outlook of neighbouring residents. The Inspector concluded that the development would have moderate adverse landscape and visual impacts, particularly when viewed from public rights of way in the area from which the development would be seen by high sensitivity receptors (walkers) enjoying the Mid Devon countryside. The Inspector concluded there would be no harmful cumulative impact with other solar schemes in the area and the development would not detract from the special landscape qualities of the AONB. In terms of impact on residential amenity, the Inspector concluded that the adverse effects on the outlook of neighbouring residents, particularly those at Whipcott Heights, should be given moderate weight in the overall planning balance. The Inspector also considered the impact of the development on heritage assets, in particular on the setting of the Grade I listed Holcombe Court. Whilst he commented that the proposed development would not intrude into or disrupt any important views of Holcombe Court, the development would be visible from part of the grounds and the roof the tower and would be glimpsed from the long gallery. He concluded that the development would result in less than substantial harm to the significance of this listed building. In weighing the planning balance, the Inspector found that the benefits of the scheme would not outweigh the totality of the harm identified and would fail to satisfy the environmental dimension to sustainable development.

15/01522/TPO	Application to dismantle 2 mature Silver Birch trees to ground level protected by Tree Preservation Order 02/00009/TPO	23A Higher Town Sampford Peverell Tiverton Devon EX16 7BR	Refuse consent	Delegated Decision	Refuse permission	Written Representations	Appeal Dismissed
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Summary of Inspectors Comments

The inspector considered two main points

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

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

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

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

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

Application No	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
15/00703/PNCOU	Prior notification for change of use of an agricultural building to a dwelling under Class Q	Eastmere Farm Lapford Credton Devon EX17 6QU	Refusal of Prior Approval	Delegated Decision	Refusal of Prior Approval	Written Representations	Appeal Dismissed

Summary of Inspectors Comments

The appeal relates to the change of use of an agricultural building to a dwelling under Class Q of the Town and Country Planning (General Permitted Development)(England) Order 2016. The main issue was whether the proposal meets the criteria of the GPDO, particularly in terms of the building operations set out at Q.1(j). The building has a timber frame made from a mixture of rough sawn and planed components, covered externally with profiled metal sheeting. The floor is concreted in some areas with some areas of earth flooring. The structural surveys submitted found that additional structural strengthening was required to facilitate the residential conversion and was therefore contrary to the advice set out in paragraph 105 of the PPG which confirms that no new structural elements are required. Due to the slope of the floor restricting the available headroom, a degree of alteration and levelling to the internal floor level would be required. The inspector found that the excavation would be to an extent that was not within the building operations permitted by the legislation. The inspector concluded that the works to facilitate the change of use go beyond those permitted by the GPDO and therefore the appeal was dismissed. An application for costs was also dismissed by the inspector.

15/01434/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
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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.

12/00122/NUDRU	Appeal against Enforcement Notice	Autumn Cottage 46A Brook Street Bampton Tiverton Devon EX16 9LY				Enf Written Reps	Appeal Dismissed
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Application No	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
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Summary of Inspectors Comments

The Inspector's decision has been received with regard to the appeal against an enforcement notice at Autumn Cottage in Bampton; ref 12/00122/NUDRU. The notice was served in relation to an unauthorised building which was partly erected within the River Bathern floodplain and Bampton Conservation area. The notice was for the removal of the building from the land.

The appeal was made under grounds (A) and (F) and failed on both grounds. The Inspector's comments were that under ground (A); that planning permission should be granted, the building should not be granted planning permission due to its size and location, specifically because of the impact on the Conservation Area more so than any flood risk. Under ground (F); that the requirements of the notice are excessive, no specific lesser steps were suggested and where a building is unauthorised, as in this instance, removal of the building from the land is not an excessive requirement.

The Inspector's decision is to dismiss the appeal and uphold the enforcement notice. This decision was issued on 14th September 2016 meaning the appellant now has six months from this date to remove the building from the land.

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.

15/01688/FULL	Erection of dwelling	Land Rear of 65 Tidcombe Lane Tiverton	Refuse permission	Delegated Decision	Refuse permission	Written Representations	Appeal Dismissed
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Application No	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
		Devon EX16 4EQ					

Summary of Inspectors Comments

The main issues were the effect of the proposed development on:

- (i) the character and appearance of the area;
- (ii) the living conditions of adjoining occupiers with regard, in particular, to loss of outlook and privacy; and
- (iii) highway safety.

On each of the main issues the appeal was dismissed. The Inspector considered the proposal would appear as a conspicuous and discordant feature which would not relate to its surroundings and would be harmful to the character and appearance of the area. It would have an adverse effect on the living conditions of the neighbouring occupiers with regard to loss of outlook and upon highway safety. The proposed development would displace parking. Any increase in demand for on street parking on Tidcombe Lane would exacerbate the impaired visibility for vehicles exiting Tidcombe Close and would introduce additional risk to all road users.

15/01632/FULL	Erection of a dwelling	Jersey Cottage Sampford Peverell Tiverton Devon EX16 7EH	Refuse permission	Committee Decision	Refuse permission	Written Representations	Appeal Dismissed
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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 issue is whether the proposal would be an acceptable and sustainable form of development, having regard to its location in relation to local and national policies that seek to limit new development in the countryside.

The site is located to the east of the village of Sampford Peverell close to Tiverton Parkway railway station and adjacent to the A361 main road.

The area is predominantly rural in character with open fields and hedgerows in-between the development, and scattered trees along field boundaries.

Paragraph 55 of the National Planning Policy Framework (the Framework) seeks to promote sustainable development in rural areas through locating housing where it will enhance or maintain the vitality of rural communities.

However, there is little evidence to demonstrate that the addition of a single new home would boost materially the vitality of the community, particularly as the future occupants may equally be likely to travel to nearby towns.

The proposed development would be clearly outside and some distance from the edge of the village. Services in Sampford Peverell are limited.

The site is not within a village location and there is very limited residential development in the vicinity. Consequently, I find that the proposed dwelling would be isolated in terms of the Framework. There is no evidence to demonstrate why the proposed dwelling needs to be located in the countryside and how it would contribute to an identified local housing need.

In conclusion, the proposed dwelling would be outside the settlement and would be in the countryside for development plan purposes. No special circumstances have been demonstrated to justify the countryside location. Consequently the proposal would not accord with Policy COR18 of the Mid Devon Local Development Framework: Core Strategy (adopted 2007) which seeks to restrict development outside of settlements unless it is for agriculture and other appropriate rural uses. The policy is consistent with the Framework in this respect.

15/01778/PNCOU	Prior notification for the change of use of an agricultural building to a dwelling under Class Q	Lower Burston Farm Burston Lane Bow Crediton Devon EX17 6LB	Refusal of Prior Approval	Delegated Decision	Refusal of Prior Approval	Written Representations	Appeal Dismissed
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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

This notification was the change of use of the building to residential under Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015. The main issue is whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change from agricultural use to use as a dwellinghouse. The appeal building and nearby barn are linked by a covered field shelter some 5m wide, which the notification proposed to remove with the exposed elevation of the barn to be enclosed in block work. Despite the applicants case that the small size of the farm and the viability issues currently suggest that it is unlikely that the neighbouring building would be used for accommodating livestock in the future, the inspector considered that whilst the building was still there it could be used for such purposes at any time in the future. The inspector supported the concerns that the occupiers would experience an unsatisfactory living environment through noise and disturbance from both livestock and the activities involved. The inspector did not consider that it would be appropriate, or supported by the legislation of Planning Practise Guidance, to impose an agricultural occupancy condition or occupancy by family members only. The inspector concluded that the location and siting of the building makes it undesirable to change use to a dwelling house by virtue of the risk of unsatisfactory living conditions arising from the closeness of the appeal building to the adjacent barn and therefore fails to comply with the conditions set out in Q.2(e).

15/01232/PNCOU	Prior notification for the change of use of an agricultural building to dwelling under Class Q	Building at NGR 307382 112173 (Oakford House) Uffculme Devon	Refusal of Prior Approval	Delegated Decision	Refusal of Prior Approval	Written Representations	Appeal Dismissed
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Summary of Inspectors Comments

Although the building was found to be structurally sound and the works proposed were reasonably necessary to convert the building, it was found that on the balance of probabilities, the site was not used solely for an agricultural use as part of an established agricultural unit on the relevant date. Photographic evidence of the physical condition of the building and the equestrian use of the site weighed against the sworn statements provided.

15/00989/OUT	Outline for the erection of 8 dwellings	Land and Buildings at NGR 277638 93018 (East Of Hill View) Cheriton Bishop Devon	Refuse permission	Delegated Decision	Refuse permission	Written Representations	Appeal Dismissed
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Application No	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
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Summary of Inspectors Comments

The planning application was refused by officers under delegated authority for 3 reasons summarised as follows: whether, with due regard to the development plan and national policy, there is a proven need for affordable housing which justifies the proposal in this location; the effect of the proposal on the character and appearance of the area; and whether sufficient information has been provided in respect of car parking and drainage.

The inspector agreed with the Local Planning Authorities decision on all matters, with confirmation that the applicant had not made any provisions to ensure that the affordable housing is made available as such in perpetuity.

15/01194/MFUL	Erection of a solar farm 4.9MW, landscaping and associated infrastructure, access and underground cables	Land at NGR 285528 98874 (Duncombe) Newton St Cyres Devon	Refuse permission	Delegated Decision	Refuse permission	Written Representations	Appeal Dismissed
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Summary of Inspectors Comments

The planning application was refused by officers under delegated authority for 2 reasons summarised as follows. The second of the two reasons for refusal related to the absence of adequate archaeological information. This has subsequently been provided and confirmation has been given that a scheme of archaeological investigation could be a condition of any grant planning permission. Therefore, the Inspector was left to determine if the proposal would be acceptable in terms of the impact on the character and appearance of the landscape and whether the benefits of the scheme would outweigh any identified adverse impacts.

The Inspector agreed with the Local Planning Authorities decision, and concluded that the proposed solar farm would introduce a large-scale discordant change into the landscape with closely experienced impacts on users of public rights of way who would be particularly sensitive to the effects of the development; and adverse impacts would remain after mitigation. The aggregation of the harm to the character and appearance of the landscape would not be outweighed by the acknowledged benefits of the project; and the proposal would conflict with the development plan and also with the Framework when read as a whole.

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
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Application No	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
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Summary of Inspectors Comments

The appeal 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.

15/01850/CLU	Certificate of Lawfulness for existing use of building as residential dwelling and associated use of land as residential garden for a period in excess of 10 years	The Orchard Cheriton Bishop Exeter EX6 6HP	Refuse Certificate of Lawful Use	Delegated Decision	Refuse permission	Written Representations	Appeal Dismissed
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Summary of Inspectors Comments

The site has an interesting planning history as far back as 2001, and in 2010 a Certificate of Lawfulness was issued for the siting of a caravan for full time residential occupancy was granted by this Authority.

This current appeal was regards an application for a Certificate of Lawfulness for the existing use of the unit as a residential dwelling and associated use of land as residential garden for a period in excess of 10 years.

The key issue is whether the unit is a mobile home or a structure within the definition of a dwellinghouse and the appellant had argued that the various works undertaken at the site and the pattern of use of it enables it to be qualify as a dwellinghouse.

Officers under delegated authority refused to issue a certificate, and the Inspector agreed that on balance that the unit is not a dwellinghouse but a mobile home with the site being occupied in line with the certificate issued in 2010.

15/01104/OUT	Outline for the erection of a dwelling	Land at NGR 310114 115966 (Whitton Cottage) Nicholashayne Devon	Refuse permission	Delegated Decision	Refuse permission	Written Representations	Appeal Dismissed
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Application No	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
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Summary of Inspectors Comments

The main issue is whether the proposal would provide a suitable site for housing, having regard to the proximity of services. The appeal site comprises part of the garden of Whitton Cottage and currently contains a stable block and a static caravan. The site lies adjacent to a rural road and is largely enclosed by established trees and hedges. Whitton Cottage is one of a cluster of dwellings in Nicholashayne, which is predominantly rural in character. The site is outside of any settlement as defined in the adopted Mid Devon Local Development Framework: Core Strategy 2026 (2007) and is in the countryside for development plan purposes. Paragraph 55 of the Framework states that new isolated homes in the countryside should be avoided unless there are special circumstances. The development would be used in part as an office. However, it is not essential for the business to be located in the countryside as it could be operated from other premises in a defined settlement. Consequently, the proposal cannot be considered as essential accommodation for rural workers. There are limited facilities in the nearby village of Culmstock. However, there is little evidence to demonstrate that the addition of a single new home would boost materially the vitality of Culmstock. To conclude on this matter, the proposed dwelling would be outside of any identified settlement and no special circumstances have been demonstrated to justify the countryside location. Furthermore, due to the site's location, future occupants would need to travel to access basic goods and services and it is highly likely that there would be a dependence on the private car. Therefore, the development would not accord with Policies COR1, COR12 and COR18 of the Core Strategy which seek to locate development in the most accessible locations and control development in rural areas.

16/00115/TPO	Application to reduce crown by 1.5 metres and remove two branches of 1 Oak tree protected by Tree Preservation Order 97/00008/TPO	6 Blenheim Court Willand Cullompton Devon EX15 2TE	Application Part Granted/Part Refused	Delegated Decision	Application Part Granted/Part Refused	Written Representations	Appeal Allowed
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Summary of Inspectors Comments

The appeal is allowed for the crown reduction of the tree by 1 metre. The tree is a fine, mature specimen with large canopy, and makes a significant contribution to public amenity. There is a need to improve the shape as no work has been undertaken for nearly 10 years. The application is to crown reduce the tree by 1-1.5m but the refusal notice referred to the proposal as being to reduce the crown by 1.5m. regardless of this it is considered that the wounds resulting from a crown reduction of around 1.0m would not be large and keep the tree looking aesthetically pleasing. Consent is therefore granted for the lower end of the application 1.0m crown reduction.

16/00406/OUT	Outline for the erection of up to 5 dwellings and associated access	Land at NGR 303818 111567 Muxbeare Lane Willand Devon	Refuse permission	Delegated Decision	Refuse permission	Informal Hearing	Appeal Dismissed
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Application No	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
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Summary of Inspectors Comments

The main issues were whether or not the loss of employment land was justified and the effect of the proposal on the character and appearance of the area. The Inspector noted that policy DM21 broadly accords with the NPPF's objective of securing economic growth. The Inspector stated that the first criteria of DM21 was met, in that, taking into account the Employment Land Review, there was a sufficient range of suitable and alternative sites in the area. However, the Inspector stated that the second and third criteria of DM21 had not been met, in that the required marketing exercise had not been undertaken and the appellant had not carried out a sequential viability test as required by the policy. The Inspector concluded that she was not satisfied that it had been demonstrated that there was no reasonable prospect of the site coming forward for employment uses, conflicting with the development plan in this regard and weighing against the proposal.

The Inspector noted the Council's lack of a 5 year housing land supply and the site's location in relation to jobs, services and facilities, and the financial contributions towards public open space, education and air quality improvements, and weighed these in favour of the proposal. She also weighed in favour of the proposal the social advantages of the provision of self-build plots.

The Inspector stated that the removal of a length of mature landscaping across the front of the site and the introduction of a suburban form of development into the rural area, at odds with sporadic development along Muxbeare Lane, would not reinforce local distinctiveness or provide a positive impact on the local environment. The proposal would be harmful to the character and appearance of the area and conflict with policies COR2, DM2 and DM14 and the environmental role of sustainability. This would weigh against the proposal.

The Inspector concluded that although there would be economic, social and environmental benefits associated with the proposal, significant harm would be caused to the character and appearance of the area which would significantly and demonstrably outweigh the benefits of the scheme.

16/00061/PNCOU	Prior notification for the change of use of an agricultural building to a dwelling under Class Q	Land at NGR 306742 119851 (Wardmoor) Holcombe Rogus Devon	Refusal of Prior Approval	Delegated Decision	Refusal of Prior Approval	Written Representations	Appeal Dismissed
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Summary of Inspectors Comments

The wording of the original condition placed a restriction on alternative uses of the building, despite not expressly restricting the use of permitted development rights. The Inspector stated that the original permission was justified on the basis of the agricultural need and the compliance with the policies of the development plan, it was clearly the Council's intention to retain the building for agricultural uses as an appropriate form of development in the countryside, and not for other uses. The Inspector held that the proposal conflicts with Article 3(4) of the GPDO due to the condition imposed on the original permission, therefore the proposal would not accord with the requirements under Class Q.

16/00064/NUCU	Appeal against	Green Acres Coldridge Crediton Devon				Written Representations	Appeal Dismissed
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Application No	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
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EX17 6BW

Summary of Inspectors Comments

Enforcement Notice issued on 21 April 2016 against the material change of use of the land from use for agriculture to a mixed use for agriculture and use for the siting of a caravan for human habitation.

The Enforcement Notice required the appellant to cease use of the land for human habitation, remove any caravans from the land and remove the lorry container from the land. The period for compliance was 6 months.

Ground c appeal - that no breach of planning control has occurred as the use of the caravan falls within the scope of permitted development in connection with the construction of a barn.

The Inspector acknowledges that the appellant is undertaking the works to the barn himself, but found that progress has been very slow in the almost 2.5 years since the prior approval for the barn was granted. The Inspector states that "the rate of progress is far too slow to justify the use of a caravan for residential purposes on site". The Inspector considers the primary reason for the appellant stationing the caravan on the land is to provide his main residence. In addition, the appellant admits that his daughter also resides at the caravan on occasions. The Inspector considers the primary use of the caravan as a main residence does not fall within the scope of permitted development and would require planning consent.

For this reason, the appeal fails on Ground C.

Ground G - time for compliance.

The Inspector does not accept the appellants argument that he cannot acquire alternative accommodation. The Inspector considers that the appellant has a preference for living on site rather than an inability to live elsewhere. The Inspector considers a 6 month period an acceptable time frame for a single person to find alternative accommodation and remove the caravan and lorry container from site.

For the reasons above, the appeal is dismissed and the Enforcement Notice upheld.

15/00158/NUDRU	Appeal against	Land at 97524 124069 (Fourwinds) Morebath Devon EX16 9AU				Written Representations	Allowed in Part
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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

After this appeal was submitted by the appellant's agent to the Planning Inspectorate, two planning applications were submitted to the Council for the retention of the smaller barn, and the relocation of the other. The Council requested that this appeal be put on hold while the applications were considered; both were subsequently approved. The appeal was on two grounds; firstly that the steps required were excessive as it necessitated the removal of both buildings. The Inspector has varied the notice to reflect the circumstances following the approval of the planning applications so that only the larger, more prominent building has to be removed. The second relates to the period of compliance being too short; the Inspector considers that the 3 month compliance period given by the Council is reasonable, and therefore the appeal fails on this ground.

16/00586/HOUSE	Erection of first floor extension	16 Duke Street Cullompton Devon EX15 1DW	Refuse permission	Delegated Decision	Refuse permission	Householder Appeal	Appeal Dismissed
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Summary of Inspectors Comments

The Inspector found that the extension would be visible from rear gardens along the terrace of houses that the appeal property forms part of and also from public vantage points on Duke Street, where the side profile of the terrace forms part of the street scene. The proposed extension would have a flat roof sitting just below eaves height and would have a stark, box like appearance at odds with the traditional appearance of the appeal property and would detract significantly from the character of the terrace, causing unacceptable harm. The Inspector found that the proposal would not cause unacceptable harm to the living conditions of neighbouring properties and gardens and that there would remain a good standard of amenity for all users. Nevertheless, the harm caused to the character of the terrace outweighed this and the appeal was dismissed.

15/00075/NBRE	Appeal against the failure to comply with Condition no 1 of a planning permission Ref 10/00160/FULL granted on 20 May 2011.	Wiltown Mobile Home Clayhidon Cullompton Devon EX15 3TR				Written Representations	Appeal Allowed
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Summary of Inspectors Comments

On appeal in 2011 planning permission with a personal condition had been granted to the appellants husband (partner at the time) to reside on the site. The appellants husband subsequently passed away and the planning permission was no longer valid. The Planning Inspector considered that the development is contrary to both national and local policy, however, it was concluded that the harm arising from the mobile home is limited and had the appellant's husband not passed away then the earlier permission would be still be extant and the mobile home could have remained on site for a considerable time. In reaching this conclusion the Inspector had regard to the evidence given by the appellant as part of the 2011 appeal hearing and the references in that appeal decision to both the appellant and her husband. The Inspector also concluded that there would not be any precedent set by this decision, due to the fact-sensitive nature of this case.

Application No	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
15/01692/FULL	Sub-division of 1 dwelling into 2 dwellings, installation of 1 dormer window, and formation of additional vehicular access	Muxbeare Muxbeare Lane Willand Cullompton EX15 2RF	Refuse permission	Delegated Decision	Refuse permission	Written Representations	Appeal Dismissed

Summary of Inspectors Comments

The main issues in this case are:

- o whether the proposed sub-division represents sustainable development in the context of its location and accessibility to services and facilities, and
- o the effects of the proposed sub-division on highway safety along Muxbeare Lane.

Muxbeare is a large detached bungalow situated in countryside just outside of the built-up area of Willand. It is accessed from Muxbeare Lane, a narrow winding road leading from the B3181 into the countryside beyond. The proposal would involve the sub-division of the existing 4-bedroom, chalet-style bungalow into two 3-bedroom, semi-detached bungalows. There would be little alteration to the existing structure of the dwelling, although a new dormer extension would be added to the first floor room at its north-eastern end, and a new parking area would be created to serve the second dwelling created. The proposal would not represent sustainable development and it would conflict with national policy as set out in the NPPF. It would also conflict with Policies COR 1 and COR 9 of the Council's Core Strategy (CS), which relate to sustainable development and, in particular, to the accessibility of development and reducing the need to travel by car. Finally, it would conflict with Policies DM 1 and DM 2 of the Council's Local Plan Part 3 - Development Management Policies (Local Plan). The existing vehicular access to the site is located at its western end close to a sharp bend in the road. The proposed sub-division of the dwelling would result in a new access being created further to the east, with a new parking and turning area to the front of the new dwelling. Little information is given on the submitted plans regarding the proposed parking area. It would appear unlikely that an adequate visibility splay could be provided from the new vehicular access in an easterly direction, owing to the existence of large hedgerows on the boundaries of neighbouring properties

16/00790/PNCOU	Prior notification for the change of use of agricultural building to 3 dwellings under Class Q	Stud Thorne Farm Stoodleigh Tiverton Devon EX16 9QG	Refusal of Prior Approval	Delegated Decision	Refusal of Prior Approval	Written Representations	Appeal Dismissed
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Summary of Inspectors Comments

Appeal dismissed on the basis that the location and siting of the building makes it otherwise undesirable and impractical for the building to change use. The change of use was considered to result in unacceptable living conditions for future occupiers due to the resultant noise and disturbance from the vehicle movements and activities of the large commercial racing enterprise operating from the site. Although holiday accommodation has been approved on site the Inspector considered that the issues of noise and disturbance would not be comparable to the situation for open market dwellings where noise would be ongoing and permanent issues for the occupants. The Inspector considered that the buildings had been in solely agricultural use and were structurally capable of conversion. No costs were awarded.

Outline for the erection of a	Green Acres Farm	Refuse permission	Delegated Decision	Refuse	Written	Appeal
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Application No	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
16/00190/OUT	dwelling	Coldridge Crediton Devon EX17 6BW			permission	Representations	Dismissed

Summary of Inspectors Comments

The main refusal issue for consideration was whether the siting of a house in the open countryside accords with the approach of the development plan and national policy to new housing in the countryside and if not, whether there are any good reasons to depart from that approach.

The site currently accommodates a mobile home and a container which are unauthorised and are to be removed under the terms of an effective Enforcement Notice (which has also been subject to an appeal process). The appellant had suggested that a dwelling on the site would be more attractive than the mobile home and container currently in place. However the Inspector concluded that as the result of the requirement of the Enforcement Notice the mobile home and the container will be removed in the relatively near future. Furthermore he concluded that a dwelling on the site would bring a permanent residential presence that would appear sporadic, notwithstanding the row of existing dwellings opposite, and harmful to the character and appearance of the area.

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16/01074/FULL	Retention of an agricultural farm office	Thorne Farm Stoodleigh Tiverton Devon EX16 9QG	Refuse permission	Delegated Decision	Refuse permission	Written Representations	Appeal Allowed
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Summary of Inspectors Comments

Appeal allowed, subject to a condition that no part shall be used as domestic of residential accommodation at any time. The Inspector considered that the facilities to be provided, including a kitchen, shower room and separate meeting room are reasonably necessary to meet the current and future needs of the holding. The Inspector stated that the proposal would provide a modern and up to date facility that promoted development and diversification of the agricultural enterprise, contributing to a prosperous rural economy; the Inspector considered this to be a significant benefit in line with the aims of the NPPF. The Inspector considered there was limited evidence to demonstrate the development was carried out intentionally without planning permission and attributed little weight to this.

16/00797/HOUSE	Erection of two-storey extension	21 South View Close Willand Cullompton Devon EX15 2QP	Refuse permission	Delegated Decision	Refuse permission	Householder Appeal	Appeal Dismissed
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Application No	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
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Summary of Inspectors Comments

The main issue was the effect of the proposal on the living conditions of the occupiers of 22 South View Close with respect to light and outlook. The proposed 2 storey extension would extend across most of the width of the rear elevation and 3.6m into the garden. The extension would be in close proximity to ground floor patio doors and first floor window. The extension wall would loom over the neighbouring dwelling impacting on users of the garden, dining room and bedroom, increasing the sense of enclosure and affecting the outlook, bringing a sense of being hemmed in. The extension would affect sunlight entering the garden and patio door and cause some loss of ambient daylight at ground and first floor levels. The proposal would cause unacceptable harm to the living conditions of the neighbouring residents contrary to policies DM2 and DM13 of the LP3 DMP and para 64 of the NPPF.
