

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, 9 August 2017 at 2.15 pm

The next ordinary meeting of the Committee will take place on Wednesday, 6 September 2017 at 2.15 pm in the Phoenix Chamber, Phoenix House, Tiverton

STEPHEN WALFORD

Chief Executive
1 August 2017

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

A G E N D A

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

1 APOLOGIES AND SUBSTITUTE MEMBERS

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

2 PUBLIC QUESTION TIME

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

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

3 MINUTES OF THE PREVIOUS MEETING *(Pages 5 - 14)*

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

4 CHAIRMAN'S ANNOUNCEMENTS

To receive any announcements the Chairman may wish to make.

5 **ENFORCEMENT LIST** *(Pages 15 - 20)*

To consider the items contained in the Enforcement List.

6 **DEFERRALS FROM THE PLANS LIST**

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

7 **THE PLANS LIST** *(Pages 21 - 42)*

To consider the planning applications contained in the list.

8 **MAJOR APPLICATIONS WITH NO DECISION** *(Pages 43 - 46)*

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

9 **APPLICATION 17/00501/FULL - ERECTION OF AN AGRICULTURAL STORAGE BUILDING - LAND AND BUILDING AT CROSS PARKS FARM, NOMANSLAND** *(Pages 47 - 56)*

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

10 **17/00353/FULL - ERECTION OF 6 AFFORDABLE DWELLINGS - LAND AT NGR 307578 116857 (SE OF OAKFIELD) BURLESCOMBE** *(Pages 57 - 78)*

To receive an implications report of the Head of Planning and Regeneration following discussions at the previous meeting where Members were minded to refuse the application.

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

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

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

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

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

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

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MID DEVON DISTRICT COUNCIL

MINUTES of a **MEETING** of the **PLANNING COMMITTEE** held on 12 July 2017 at 2.15 pm

Present

Councillors

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

Apology

Councillor

R L Stanley

Also Present

Councillor

Mrs N Woollatt

Present

Officers

Lucy Hodgson (Area Planning Officer), Tina Maryan (Area Planning Officer), Alison Fish (Area Planning Officer), Daniel Rance (Principal Planning Officer) and Sarah Lees (Member Services Officer)

27 **APOLOGIES AND SUBSTITUTE MEMBERS**

Apologies were received from Cllr R L Stanley who was substituted by Cllr Mrs G Doe.

28 **PUBLIC QUESTION TIME**

There were no questions from the public present.

29 **MINUTES OF THE PREVIOUS MEETING**

The minutes of the meeting held on 14 June 2017 were approved as a correct record and **SIGNED** by the Chairman.

30 **CHAIRMAN'S ANNOUNCEMENTS**

The Chairman had no announcements to make.

31 **DEFERRALS FROM THE PLANS LIST**

There were no deferrals from the Plans List.

32 **THE PLANS LIST (00:03:30)**

The Committee considered the applications in the Plans List *.

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

- (a) No. 1 on the Plans List (**17/00034/FULL - Retention of slurry lagoon at Land at NGR 276429 99746 (Adjacent to Mardles Gate), Brocks Cross, Colebrooke**).

The Area Planning Officer outlined the contents of the report highlighting by way of presentation the site location plan, the proximity of the lagoon to the buildings on the site, photographs taken at various angles, perimeter planting and the adjacent lane.

Consideration was given to the fact that the lagoon, whilst it met with regulations, had not been lined and that the domestic property was only 40 metres away which was not deemed to be acceptable.

RESOLVED that planning permission be refused by reason of its scale and siting in close proximity to the neighbouring properties at Mardles Gate and Manor Croft is considered to adversely affect the residential amenity and the living conditions of these neighbouring occupants by way of odour.

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

Notes:

- (i) Councillor J D Squire spoke as the Ward Member;
- (ii) The following late information was reported:

17/00034/FULL – Retention of slurry lagoon at Land (adjacent to Mardles Gate) Brocks Cross, Colebrook, Devon

Page 3: Since the report was issued a letter (dated 5th July) has been received by an agent acting for the applicant: The letter confirms the following information in relation to the application:

1. The Slurry lagoon is to serve the a dairy farm which is 130 hectares (currently accommodating 250 milking cows).

The site was chosen as it is considered by the applicant that it has the following locational advantages:

1. It will allow for direct pumping from the reception pit in the nearby farmyard to the lagoon thus reducing transport movements. Note this is not how the slurry has been transported to date.
2. The slurry can be pumped from the lagoon using a umbilical cord arrangement and therefore further reduce movements.
3. The location has been chosen away from any water courses and therefore will minimise any incidents of pollution.
4. New planting will assist with screening of the unauthorised development.
5. The facility has Environment Agency (EA) approval.

10th July 2017

Officer Comment: this further information does not affect the officer recommendation as set out in the report.

Page 5 and 8:

Since the report was drafted the EA has confirmed in a letter to the applicant that the development as it has been constructed meets the requirements of the SAFFO regulations 2010.

Page 4: For the avoidance of doubt and to clarify the drafting in the report under comments from the Environmental Protection Officer.

The boundary of the unauthorised development is approximately 40 metres from the garden boundary of Mardles Gate, and given the separation distance the EPO is unconvinced that a cover would address the odour concerns arising from the development distance.

Page 8: For clarification at point 6 the report sets out a specific strategy for enforcement action should the application be refused by the planning committee. Any subsequent enforcement action that is necessary following consideration of the application by the committee will in fact be subject to a further report to committee.

Page 9 the drafting the reason for refusal has been mis typed , and should read as follows:

The slurry lagoon and surround earth bank surrounding, by reason of its scale and siting in close proximity to the neighbouring properties at Mardles Gate and Manor Croft is considered to adversely affect the residential amenity and the living conditions of these neighbouring occupants by way of odour nuisance, air quality impact and the creation of an un-neighbourly impact, contrary to Policies DM2, DM7 and DM22 of Mid Devon Local Plan part 3 (Development Management Policies) and guidance in the National Planning Policy Framework.

- (b) No. 2 on the Plans List (***17/00129/OUT - Outline for the erection of a dwelling with access at Land and Buildings at NGR 300985 112877, Between 36 and 42 High Street, Halberton.***)

The Area Planning Officer outlined the contents of the report highlighting by way of presentation the location of the site, the new proposed access, the visibility splay, the proposal to reconstruct the wall behind the visibility splay and lower the ground to provide a shelf between the relocated wall and road within which ground levels were lowered to 600mm to provide the visibility splay. The officer also referred to the fact that a unilateral undertaking and financial contribution towards the provision of public open space had been received and that an updated consultation response had been received from Halberton Parish Council.

Consideration was given to:

- The current traffic congestion within Halberton.
- The proposed access being in a difficult position.

- The location being in a distinctive part of the village.
- The loss of the wall.
- Previous planning permission had been given against conservation advice.
- The value of open green space within the village.

RESOLVED that planning permission refused based upon the following reasons:

1. The site is identified as a visually important open space within the Halberton Conservation Area Appraisal and Management Plan adopted by the Local Authority on 29th March 2006. It is considered by the Local Planning Authority that this open area, one of a number of such spaces elevated above the road, retained by a stone wall and lying between groups of cottages along the northern side of High Street, is integral to the character of this part of the village. Consequently, the proposed development which would result in the loss of the significant section of the rubble stone wall and the loss of open space within the street would in the opinion of the Local Planning Authority cause a high level of less than substantial harm to the character and appearance of the Conservation Area that is not outweighed by the public benefit, contrary to policies COR2 of the Mid Devon Core Strategy (Local Plan Part 1), DM2 and DM27 of the Local Plan 3 Development Management Policies and the National Planning Policy Framework.
2. No assessment has been made of the potential land contamination risks on the site and the status of the site in terms of land contamination and risks to future users of the site is unknown. This is not considered to be consistent with the introduction of a new sensitive/vulnerable land use where the history of the use of the site is not known, contrary to policy DM7 of the Local Plan 3 Development Management Policies.

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

Notes:

- (i) Councillor R F Radford declared a disclosable pecuniary interest as he owned the land almost adjacent to the site and knew the applicant. He left the meeting for the duration of the item;
- (ii) Councillor R J Dolley declared a personal interest as he knew the applicant and used to graze cattle in the field behind the site;
- (iii) Mr Alex Sebbinger spoke as the agent for the application.
- (iv) Councillor R J Dolley requested that his abstention from voting be recorded.
- (v) The following late information was reported:

10th July 2017

Unilateral undertaking and financial contribution towards the provision of public open space now received.

12th July 2017

Halberton Parish Council

I am just writing to confirm Halberton Parish Council's formal response to this application is:

The Council's objection to this application is unchanged on the grounds of access on to High Street, over burdening on the roadside wall, height, visual intrusion and over-looking other properties. It is unclear what revisions have been made to the plan and the plans appear to be inaccurate with regard to the elevation of the site. The Council requests this application be called-in.

- (c) No. 3 on the Plans List (**17/00617/MFUL - Erection of a commercial unit (1180sqm) following demolition of 2 existing units at Hartnoll Business Centre, Hartnoll Farm, Tiverton.**)

The Principal Planning Officer outlined the contents of the report highlighting by way of presentation:

- The site location plan.
- The proposed access points.
- The height of the proposed building being slightly higher than the existing buildings.
- Side elevations and roof plans.
- Proposed improvements to the parking area providing a better traffic flow.
- Photographs of the buildings to be removed.
- Views taken of the site from the canal.

Consideration was given to:

- The new building would allow for the relocation of a successful, world leading, Tiverton firm, employing skilled local people.
- There would be some soundproofing and all work would be carried out within the building.
- The planting around the site was maturing and would further screen the building in question as time progressed.
- The possible future increase in trade and the resulting increase in traffic movements.

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

(Proposed by Cllr Mrs H Bainbridge and seconded by Cllr Mrs C Collis)

Notes:

- (i) Councillors Mrs H Bainbridge, Mrs F J Colthorpe, Mrs G Doe, R J Dolley, Mrs C Collis, P J Heal, D J Knowles, F W Letch, B A Moore, R F Radford and J D Squire made declarations in accordance with Protocol of Good Practice for Councillors Dealing in Planning Matters as they had all received correspondence from an objector.

- (ii) Councillors D J Knowles and R F Radford declared personal interests as they knew Mr Clapp.
- (iii) Councillor Mrs F J Colthorpe declared a personal interest as she had once attended a party where Mr Clapp had been present.
- (iv) The following late information was reported:

10th July 2017

Further objections have been received since the report was written, however the contents of such objections have already been considered in the report.

- (d) No. 4 on the Plans List (**17/00792/FULL - Erection of 2 dwellings at Land at NGR 302323 107962, Adjacent to 75 Head Weir Road, Cullompton**).

The Principal Planning Officer outlined the contents of the report highlighting by way of presentation the site location, drawings of the proposed dwellings, current photographs of the open space, the proposed pathway, the current street scene. He stated that the Highways Authority had not raised any concerns in relation to the access. There was currently a mixture of properties in the locality in terms of size and finish. The proposed dwellings would be more modern in appearance with wooden cladding to the upper sections. It was anticipated that the dwellings would be placed on the open market and not allocated for social housing.

Discussion took place regarding:

- There had not been any public consultation on the open space although neighbours had been notified along with the advert and site notice.
- Whether the assessment of the site as being 'surplus to requirements' had been thorough enough.
- The value of public open space.
- Possible anti-social behaviour which might be encouraged by narrow alleyways.
- A precedent being set by building on small parcels of land and losing public open space.

RESOLVED that a decision in relation to the granting of planning permission be deferred to allow for a site visit to take place by the Planning Working Group in order to consider the setting of the open space and to allow for evidence to be brought forward to support the assertion that the open space is surplus to requirements.

(Proposed by Cllr D J Knowles and seconded by Cllr R J Dolley)

Notes:

- (i) Councillor D J Knowles declared a personal interest as he knew Mr N Quinn who had registered to speak as an objector.
- (ii) Mr N Quinn spoke in objection.
- (iii) Councillor Mrs N Woollatt spoke as Ward Member.

- (iv) Councillors Mrs F J Colthorpe, P J Heal and J D Squire requested that their vote against the decision be recorded.
- (v) The following late information was reported:

10th July 2017

The proposed allocation of open space funding for this site has been assigned to the Tufty park Fund, although there are two open space sites closer to the subject properties, Therefore following discussions with Cullompton Town Council and the Local ward Member it is considered that the funding should be allocated to Head weir Road and or Linear Park rather than Tufty park.

As Payment is still to be received this can be amended by the resubmitting the Unilateral undertaking with the appropriate open space allocation.

- (e) No. 5 on the Plans list ***(17/00854/OUT - Outline for the erection of a dwelling at Land at NGR 306965 114496 (2 Appledore Court), Burlescombe, Devon).***

The Area Planning Officer outlined the contents of the report highlighting by way of presentation the site location, photographs showing the layout of the site in relation to neighbouring buildings, access arrangements, parking facilities and the road layout in the immediate vicinity.

Consideration was given to:

- Reference within the Local Plan to the fact that certain areas within the countryside would allow for sustainable development, however, it was the officers view that there were limited facilities within the locality and a limited bus service meaning that the occupants of the new dwelling would be likely to need a vehicle.
- Differing views as to what constituted as a limited bus service.
- Uffculme being within walking distance for able bodied people.
- Previous permission to allow the pre-existing building on the site to be converted from a pub to a domestic dwelling.

RESOLVED that planning permission be refused for the following reason:

The site is located in the countryside where national and local planning policy and in particular paragraph 55 of the National Planning Policy Framework seek to avoid new homes in the countryside unless there are special circumstances such as the essential need for a rural workers dwelling. No information has been submitted to demonstrate there are any such special circumstances. The Local Planning Authority have considered the shortfall in housing land supply does not override all other considerations. In this instance, the harm that has been identified in providing residential development in an unsustainable location significantly and demonstrably outweighs the benefits that would be derived from the scheme. The proposal would not satisfy the environment dimension to sustainable development, as defined within the Framework, and in failing to meet overall sustainability objectives it would also

conflict with Mid Devon Core Strategy (Local Plan Part 1) policy COR1 and Mid Devon Local plan Part 3 (Development Management) policy DM1.

(Proposed by Cllr Councillor B A Moore and seconded by Cllr R J Dolley)

Notes:

- (i) Councillors Mrs H Bainbridge, Mrs F J Colthorpe, Mrs G Doe, R J Dolley, Mrs C Collis, P J Heal, D J Knowles, F W Letch, B A Moore, R F Radford and J D Squire declared personal interests in that they knew the applicant.
- (ii) Councillor Mrs G Doe declared a further personal interest in that the applicant was a friend and she had visited the site.
- (iii) Mr Alex Sebbinger spoke as the agent for the application.
- (iv) Councillors Mrs C Collis, Mrs G Doe, R F Radford and J D Squire requested that their vote against the decision be recorded.

33 MAJOR APPLICATIONS WITH NO DECISION (01:56:20)

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

It was **AGREED** that the following applications be determined by the Committee:

Application 17/00982/FUL – Cromwells Meadow, Crediton, be brought before Committee for determination and that a site visit take place.

Application 17/00886/MOUT – Uffculme Road, Uffculme, be brought before committee for determination.

Application 17/00942/MOUT – Exeter Hill, Tiverton, before brought before Committee for determination.

Application 17/00878/MOUT – Land south of Broadlands, Thorverton, be brought before Committee for determination and that a site visit take place.

Application 17/00924/ - Newland farm, Cullompton, be brought before Committee for determination.

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

34 APPEAL DECISIONS (02:07:45)

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

Consideration was given to the appeal at Dulings Farm, Copplestone in terms of the Inspector not agreeing with the Planning Committee's reasons 3,4 and 5 for refusal.

A further brief discussion took place regarding how costs in relation to these matters were determined.

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

35 **APPLICATION 17/00593/HOUSE - ERECTION OF FIRST FLOOR EXTENSION TO SINGLE STOREY DWELLINGS - WOODLAWN, CALVERLEIGH (02:11:35)**

The Committee had before it a *report of the Head of Planning and Regeneration. The application had been considered by the Committee on 14 June 2017 and Members had resolved to approve the application as per the officer recommendation. Within the officer report it was set out that no representations had been received in connection with the application. However, 3 letters had been received and a summary of their content should have been reported to Members.

The purpose of the additional report for this meeting was to ensure clarity and completeness with regard to the objections that had been received.

RESOLVED that planning permission be granted subject to conditions as the proposed extension by virtue of its overall scale, massing, design and location not being considered to harm the privacy or amenity of the occupiers of another dwelling, the future amenities and services of the dwelling/building to be extended or its surroundings. As such the proposal is considered to comply with Policies DM2 and DM13 of the Local Plan Part 3 (Development Management Policies).

(Proposed by the Chairman)

Notes:

- (i) Councillors Mrs H Bainbridge, Mrs F J Colthorpe, Mrs G Doe, R J Dolley, Mrs C Collis, P J Heal, D J Knowles, F W Letch, B A Moore, R F Radford and J D Squire declared personal interests as they knew the applicant.
- (ii) Councillor Heal requested that his abstention from voting be recorded since he had not been present at the previous meeting where the application was discussed.
- (iii) * Report previously circulated; copy attached to the signed minutes.

36 **PLANNING PERFORMANCE 2016/17 (02:16:50)**

The Committee had before it, and **NOTED**, a report * from the Head of Planning, Economy and Regeneration providing it with information on the performance aspects of the planning function of the Council for the 2016/17 financial year.

It was explained that the Planning Enforcement department had suffered significant staffing difficulties over the past two years but they were now up to the full complement of staff having 2 full time employees and one part time.

It was also stated that whilst the outcome of the restructure within the Planning Service was now known recruitment was still being undertaken in relation to vacant posts.

The Committee wished to pass on their thanks to the Planning Service for continuing to successfully run the service under difficult circumstances.

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

(The meeting ended at 5.00 pm)

CHAIRMAN

Agenda Item 5

PLANNING COMMITTEE AGENDA – 19th April 2017

Enforcement List

<u>Item No.</u>	Description
1.	ENF/16/00243/UDRU – Erection of two storey building in rear garden
	6 Forestry Houses, Chenson, Chulmleigh, Devon

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Case No. ENF/16/00243/UDRU

Grid Ref: 269330 110461

Address:

6 Forestry Houses, Chenson, Chulmleigh, Devon

Alleged Breach:

Erection of two storey building in rear garden

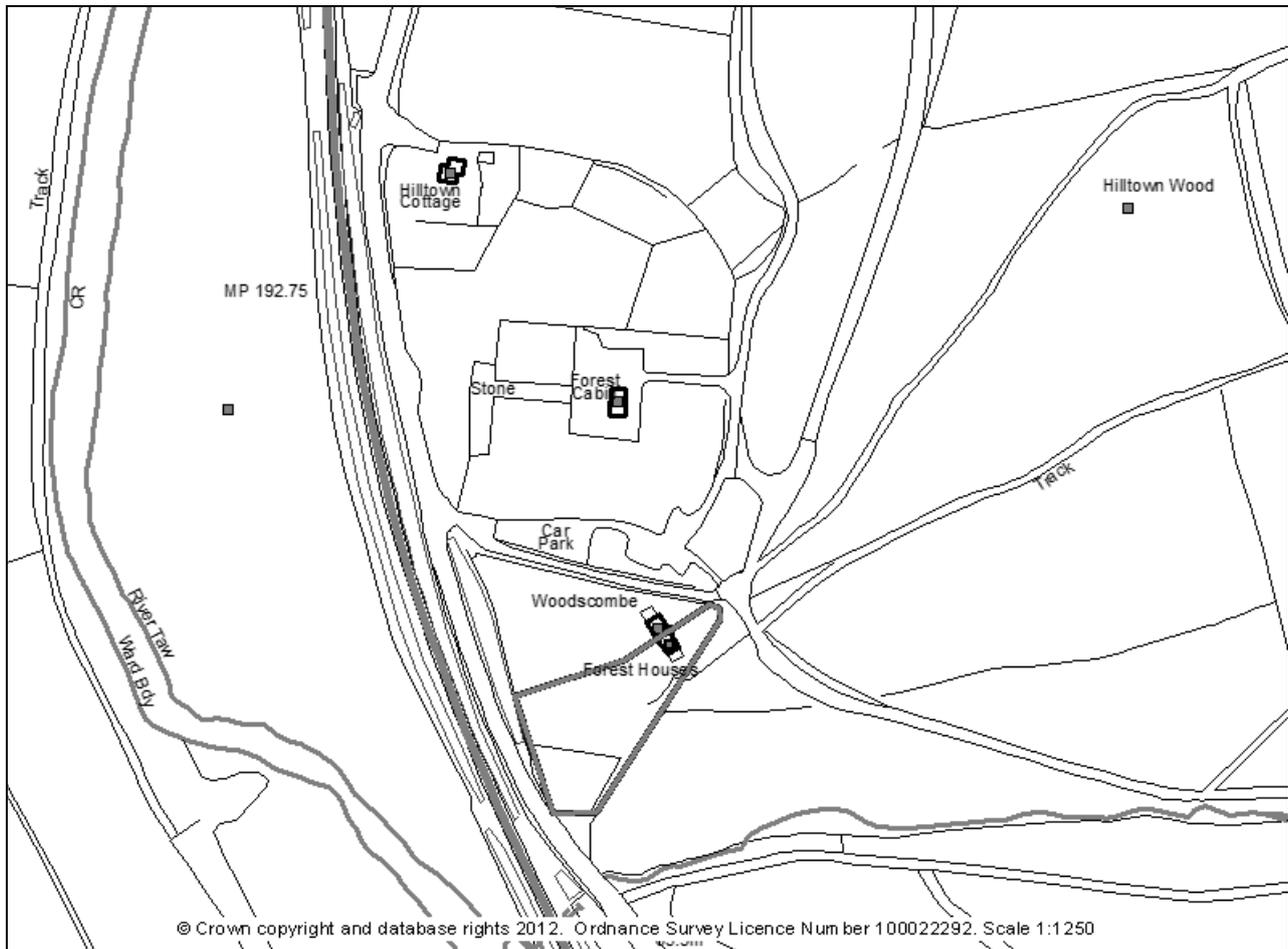
Recommendation:

That Members, having regard to the provisions of the Mid Devon Development Plan and all other material planning considerations in accordance with Section 172, Town and Country Planning Act 1990, ("the Act") should grant authority to the Legal Services Manager take all such steps and action necessary to secure the demolition and removal of the unauthorised development including the issue of an enforcement notice and prosecution and/or Direct Action in the event of non-compliance with the notice.

Site Description:

The site is located within the parish of Chawleigh 10, approximately 17 miles north-west of Crediton. The semi-detached property occupies a large elevated plot on the eastern side of the A377 surrounded to the north, east and south by Eggesford Woods.

Site Plan:



Site History:
None

Development Plan Policies:
National Planning Policy Framework

Mid Devon Core Strategy (Local Plan 1)
COR18 - Countryside

Mid Devon Local Plan Part 3 (Development Management Policies)
Policy DM13 - Residential extensions and ancillary development
Policy DM31 - Planning enforcement

Reasons/Material Considerations:

In October 2016, a complaint was received by the enforcement team regarding the erection of a new building within the rear garden of 6 Forestry Houses. An initial site visit in November 2016 established that a two storey, timber clad building with single storey lean-to was under construction. The building comprises three openings at ground floor level and a new uPVC window at first floor level.

At the time of the site visit, the building was still to be completed and comprised two open plan spaces at ground and first floor level. However, the Council had received information prior to the site visit that a number of internal walls had recently removed. The landowner was not present during site visit, therefore, it was not possible to establish the validity of these claims at that time.

A Planning Contravention Notice (PCN) was served on the owner of the land requesting specific information in relation to the building under construction. The PCN was returned to the Council by the landowner, who stated that the two storey building will be used as a home gym at ground floor level, a children's play area at first floor level, while the single storey lean-to is to be used as a poly-covered greenhouse. Within the context of the PCN, the landowner stated that the building had been constructed on the foundations of an existing barn and whilst works first commenced in July 2015, they are currently on hold pending the outcome of the enforcement investigation.

The Council considers the building represents new development, rather than the reconstruction of an existing barn, for which planning consent is required owing to the two storey nature of the building. Whilst the erection of a two storey building in this location might be considered acceptable in planning terms, it is likely that the Council would seek to impose conditions that restrict the use of the building for purposes ancillary to the main dwelling.

Although not pertinent to this case, it is recognised that under Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015, the landowner could erect a single storey building in this location without the need for planning consent, however, the landowner has failed to enter into discussions with the Council in this respect, therefore, the LPA has no alternative but to seek the removal of the entire structure.

The landowner was invited to submit a retrospective planning application for the retention of the building as built, yet despite several requests has failed to do so. Despite initial indications that the landowner would seek to regularise the development voluntarily, there has been no further communication with the Local Planning Authority since May 2017. On 20 June 2017, the landowner was advised in writing that the Council intended to prepare a report for the Planning Committee seeking authorisation to issue an Enforcement Notice. The LPA has received no response to this email and a site visit on 13 July 2017 confirmed that the building had not been removed.

It is your officer's view that the landowner has been given every opportunity to seek to regularise the unauthorised development voluntarily yet the breach of planning control remains. The failure of the landowner to submit a retrospective planning application for the building precludes the Council from imposing the necessary controls required to ensure that the building cannot be occupied as a separate unit of residential accommodation and its use and occupation generally. The Council is aware that a smaller unit of ancillary accommodation already exists on site and is keen to ensure that this larger unit does not, now or in the future, constitute a separate dwelling which could become immune from enforcement action through the passage of time.

Human Rights and Equality Issues:

The expediency of Enforcement action has been assessed with reference to the National Planning Policy Framework (NPPF). Expediency has also been assessed with regard to the statutory Development Plan, comprising the Core Strategy 2026 (July 2007), the Allocations and Infrastructure Development Plan Policies (January 2011) the Local Plan Part 3 Development Management Policies (October 2013) the Proposed Local Plan Review Policies 2013 - 2033.

When making their decision, Members must have regard to all relevant planning legislation, regulations, guidance, circulars and Council policies.

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

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

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

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

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

Reasons for issuing the Notice

It appears to the Council that this breach of planning control has occurred within the last four years. This breach is in relation to the erection of a two storey building on the land, without the benefit of planning consent. Without the necessary controls afforded by the imposition of planning conditions, the Council has concerns that the building may now, or in the future, be occupied as a separate unit of residential accommodation. The use of the building as an unfettered dwellinghouse would represent an over-development of the site and potentially have an adverse impact of the residential amenity of the immediate neighbours, and furthermore, would be contrary to policy controlling new development in the open countryside. The development is, therefore, considered to be contrary to policy COR18 of the Mid Devon Core Strategy 2026 and policies DM13 and DM31 of the Mid Devon Local Plan Part 3.

PLANNING COMMITTEE AGENDA - 9th August 2017

Applications of a non-delegated nature

<u>Item No.</u>	Description
01.	<p>17/00910/FULL - Erection of 5 dwellings and alterations to existing bungalow and erection of garage at 10 Mayfair, Tiverton, Devon.</p> <p>RECOMMENDATION Grant permission subject to conditions and the signing of a S106 agreement to secure.</p>
02.	<p>17/00948/FULL - Erection of an agricultural livestock building at Land and Buildings at NGR 276310 106188 (Middle Weeke Farm), Morchard Bishop, Devon.</p> <p>RECOMMENDATION Grant permission subject to conditions.</p>
03.	<p>17/01020/FULL - Temporary Change of Use for 1 year from A1 use (Retail) to A1 (Retail) and D2 (Assembly and Leisure) use at 7 Market Walk, Bampton Street, Tiverton.</p> <p>RECOMMENDATION Grant 1 year temporary permission</p>
04.	<p>17/01024/FULL - Temporary Change of use for 1 year from retail (Class A1) to Assembly & Leisure (Class D2) at 21 - 22 Market Walk, Bampton Street, Tiverton.</p> <p>RECOMMENDATION Grant 1 year temporary permission</p>

Application No. 17/00910/FULL

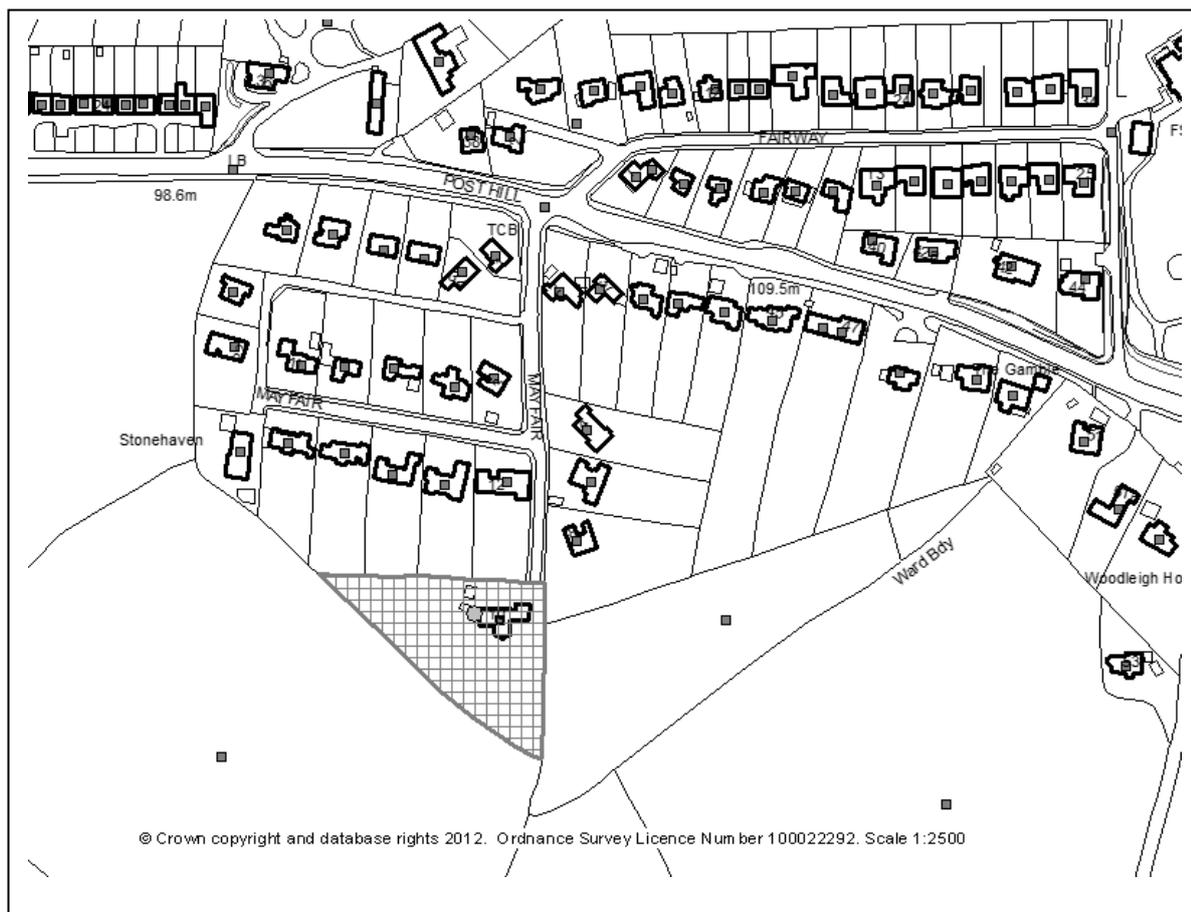
Grid Ref: 298625: 113083

Applicant: Mr O Leighton-Boyce

Location: 10 Mayfair
Tiverton
Devon
EX16 4NQ

Proposal: Erection of 5 dwellings and alterations to existing bungalow and erection of garage

Date Valid: 14th June 2017



Application No. 17/00910/FULL

RECOMMENDATION

Subject to the prior signing of a S106 agreement to secure a financial contribution of £7,210 towards off site public open space, grant planning permission subject to conditions.

COUNCILLOR COLIN SLADE HAS REQUESTED THAT THIS APPLICATION BE DETERMINED BY THE PLANNING COMMITTEE FOR THE FOLLOWING REASON:

The number of objection letters received on the application.

PROPOSED DEVELOPMENT

This full planning application is for the construction of five, two storey dwellings.

The site lies to the south of Post Hill - a principle route into Tiverton. The northern edge of this triangular site is bounded by 4 properties (No's 12, 14, 16 and 18) forming part of Mayfair. Each dwelling is located within a generous sized plot. No. 14 lies closest to the application boundary but maintains a distance of 38m from it. The remaining boundaries of the site, adjoin open countryside. This area of open countryside forms part of the Tiverton Eastern Urban Extension (EUE), the area known as 'Area B'. Area B lies within the settlement limit of Tiverton.

The private drive serving the application site gives access to two further properties (No's 6 and 8 Mayfair). The south eastern corner of the site is occupied by a number of mixed woodland trees. However, these do not form part of the application site.

The application now submitted is for the retention of the existing bungalow and inner hall of the annex and construction of 5 dwellings. The five proposed dwellings are located towards the south western boundary of the site. The private drive sweeps into the site terminating in a turning head on the northern boundary of the site. Access will be retained from the existing private drive and each dwelling will have at least 2 dedicated parking spaces.

APPLICANT'S SUPPORTING INFORMATION

Preliminary Ecological Appraisal
Covering letter and additional information with Amended Plan (relating to existing dwelling)
Design and Access Statement

PLANNING HISTORY

88/01893/FULL - PERMIT (September 1988) - Conversion of garage and store into granny annexe

DEVELOPMENT PLAN POLICIES

Mid Devon Core Strategy (Local Plan 1)

COR1 - Sustainable Communities
COR2 - Local Distinctiveness
COR9 - Access
COR12 - Development Focus
COR13 - Tiverton

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

DM8 - Parking

DM14 - Design of housing

CONSULTATIONS

ENVIRONMENTAL HEALTH: The proposed development will involve the demolition of existing premises or structures, which may contain hazardous liquid or solid materials (including asbestos). Should planning consent be forthcoming, a condition should be attached.

HIGHWAY AUTHORITY: The applicant has submitted an amended plan which remains illustrative only but is sufficient to demonstrate that the access is suitable to serve the 5 dwellings applied for. There will need to be minor amendments to improve alignment and tactile paving, furthermore the drainage details are yet to be submitted and approved all of which are conditional as a pre commencement condition for approval. Therefore the Highway Authority are happy to remove its holding refusal and recommend that should consent be granted should be subject to conditions.

REPRESENTATIONS

27 objections summarised as follows:

1. This appears a high density of development to be accessed off a narrow lane.
2. Access from the main highway is already difficult due to un-restricted parking on both sides of the road. An additional 16 car spaces represents a significant increase in traffic.
3. The height of the proposed dwellings does not represent the height of those neighbouring. It is not in keeping.
4. Property deeds (covenant) indicate that no new houses (or any permanent structure) can be built on the plots in Mayfair - to protect the quality of development, character and density of the neighbourhood. If the owner of No. 10 has requested the covenant to be lifted, the Mayfair residents have not been consulted.
5. The number of houses proposed is not in keeping with the neighbourhood and is overdevelopment. This proposal would set a precedent
6. The proposed layout and 'bunching' of properties to one side of the site is as a result of the possibility of an access route into Area B of the Tiverton EUE.
7. The site is on a prominent ridge when viewed from surrounding countryside and the canal. The principle of low rise, low density bungalow development has been established. Two storey development is not sensitive to the location. Two storey development may be more appropriate further down the hill via development on Area B but with the retention of a green buffer to existing properties.
8. A sewerage pumping station will be required because the plot slopes away from the main rise in Post Hill. This is not acceptable.
9. The additional dwellings would represent a 500% increase in traffic movement, noise and pollution along a private lane. This also raises safety concerns with limited visibility from private drives.
10. Where will surface water be directed?
11. The development of 5 dwellings creates a loss of privacy for No.s 12; 14; 16 & 18. The proposed properties will be overbearing and over shadow existing properties.
12. The proposal is premature to the adopted EUE Masterplan.
13. Access to these 5 properties should come from Area B
14. Mayfair has insufficient community amenities to accommodate these properties until Area A of the Tiverton EUE is developed.
15. Can it be confirmed that the proposal to put access through No. 10 for future (Area B) development has nothing to do with the sympathetic treatment the developer is receiving?
16. The private drive has insufficient width to allow two vehicles to pass. It will impede existing users to enter and exit their properties. It is not suitable for the extra traffic from 5 new dwellings or for construction vehicles.

17. The pre application enquiry identifying access to serve the future development of Area B across this site is alarming and in conflict with the Adopted Planning policy. The WYG report identifies 6 trees for removal. This will have a negative impact on wildlife.
18. Bungalows would be more in keeping.
19. Water runoff is a concern as the road way is above front gardens.
20. No. 8 bounds the private drive to No. 10. The deed title indicates that No. 8 has 'rights for all purposes' along the length of the drive. The proposal presents possible interference with No. 8 and associated legal rights.
21. This development will set a precedent for Area B of the Tiverton EUE - over development at the detriment of the environment.
22. The increase in traffic presents a danger at the Mayfair / Post Hill road junction.
23. The private drive would not be of sufficient size for vehicles associated with the emergency services.
24. The proposal does not comply with Policy DM1 - understanding the characteristics of the site and its wider context or the principles of the Adopted TIV EUE Masterplan.
25. Why is no bat survey provided?
26. Noting the pressure to deliver the Tiverton EUE, it is hoped that a compromise is not reached on this site that facilitates access into Area B over the interests of good sustainable planning.
27. The applicant intends to retain part of the building, initially proposed for demolition. How will the new access and footpath circumnavigate the retained building?
28. How can the Inner Hall of the Annexe be retained when the rest of the Annexe is to be demolished?

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The key issues in the determination of the application are:

- 1. Policy Relationship with Area B**
- 2. Highway safety**
- 3. Detailed design and layout.**
- 4. Amenity of neighbouring residents**
- 5. Social Infrastructure and services - sewage, water**
- 6. Ecology**

1. Relationship with Area B

It is acknowledged that this site adjoins Area B of the Tiverton EUE and that a period of public consultation has recently closed on Area B of the EUE in which the suitability of access through this site into Area B was considered. However, this is an application for 5 dwellings with vehicular access to serve them. Whilst the wider context of the EUE requires acknowledgement this application requires consideration on the basis by which it has been submitted - an application for 5 dwellings.

A number of comments have been received referencing Area B - that this proposal is premature to the Adopted Area B Masterplan; that the design and layout is a response to a future need for access into Area B. This site does not form part of the EUE. Whilst the wider context of the EUE is acknowledged, and that access into Area B through this site does not form part of adopted policy (including the Adopted Masterplan), this application requires assessment on the basis of the application submitted. A further comment received, seeks access to the 5 properties from Area B. However, as detailed above, the application requires assessment on the basis of the information provided. Area B does not form part of this application site. It lies within the settlement limit of Tiverton. It would be unreasonable to require access to come from Area B if the site can suitably accommodate access for an additional 5 dwellings from Mayfair

On the basis of the information provided, the proposal is in accordance with Policies COR1 (Sustainable Communities), COR12 (Development Focus) and COR13 (Tiverton) of the Core Strategy and Policy DM1 (Presumption in Favour of Sustainable development) of the Local Plan Part 3.

2. Highway safety

The Highway Authority has no objection to the proposal in principle being satisfied that, subject to the imposition of a condition requiring approval of details, the proposal is able to accommodate the capacity proposed. Concern has been raised through the consultation comments regarding the access from Post Hill, that it is already difficult due to un-restricted parking on both sides of the road. However, the Highway Authority is satisfied that this junction and those with private drives can accommodate the additional traffic proposed including construction traffic and emergency vehicles.

Based on the evidence provided, Officers do not consider the proposal will have an unacceptable impact on highway safety. The proposal makes provision of a pedestrian footpath and is therefore considered to be in accordance with Policy DM2d of the LP3 DMP that seeks safe and accessible places that encourage sustainable modes of travel such as walking and the National Planning Policy Framework in this respect.

3. Detailed Design and Layout / Amenity of Neighbouring Residents

Mayfair is characterised for its detached buildings that sit comfortably within generous plots. It exhibits a suburban form of layout, with each property built to a consistent building line, with the principle point of access being taken off the main street. Those properties directly north of the application site are characterised by low rise buildings. However, low rise buildings are not the typical form throughout Mayfair with a good number of two storey buildings, also being present. The attractive quality of Mayfair is presented through the generous plots that include mature planting (both within the front and rear gardens) and hedge boundaries that present a green streetscape. It is this quality that makes a significant contribution to the character of the area.

The proposal presented is accessed off the main street, by means of a private drive. The proposed dwellings, located to the rear of No.s 12, 14, 16 and 18 will not be readily visible from the main street of Mayfair.

The design of the proposed units is traditional in form, exhibiting a limited palette of materials that complement those existing. Two parking spaces are provided with each dwelling in addition to a garage. Each dwelling meets the requirements of the National Space Standards. The proposed layout and design meets appropriate standards of design and amenity for existing and future occupiers in compliance with Policy DM14(a to h) of the LP3. The small woodland on the south eastern edge of the site will be retained. This contributes to the character of the area including in long distance views. The 5 dwellings would be located on the south western boundary of the site, adjacent to the open countryside. This is beneficial in that the units are located the maximum possible distance from the neighbouring properties - limiting the potential for overlooking and loss of privacy.

The proposed layout of the scheme is constrained by the retention of the existing building and the triangular nature of the site. The relationship between dwellings, including the inclusion of balconies on the front elevation of units 1 and 3 is acceptable. Amendments have been sought for the balcony on unit No. 5 to minimise any potential overlooking of neighbouring gardens. As such, the scheme maintains suitable privacy distances with those neighbouring and no direct overlooking of existing gardens. The plots whilst not as generous as those existing make efficient use of land, whilst providing suitably sized gardens to accommodate family living. The density of development is acceptable.

Two storey properties are not uncommon within Mayfair although not representing those immediately neighbouring the site. The length of the rear gardens to the existing dwellings combined with the proposed layout ensure that the two storey dwellings would not be overbearing. Comments have been received relating to two storey properties being prominent on the ridge line. Long distant views of the site from Manley Lane and West Manley Lane can be achieved. However, in combination with the retained tree group and landscape (required through a condition should planning consent be awarded) the addition of five, two storey dwellings in this location, on the ridge, is not unacceptable. Similarly, glimpsed views from the Grand Western Canal and associated conservation area are not unacceptable.

A number of comments have been received relating to covenants associated with the existing properties. Unfortunately, this is a civil matter including any consultation, or lack of, that may have taken place with the

local residents. Similarly, existing legal rights associated with access off the private drive are a civil matter.

Officers are satisfied that the proposal complies with Policy DM1 of the Local Plan Part 3 - that the proposal exhibits an understanding of the characteristics of the site and its wider context. Whilst not forming part of the Tiverton EUE, the scheme is not out of keeping with the principles of the Adopted Tiverton EUE Masterplan. Should planning consent be forthcoming it is recommended that a condition requiring full details of the landscaping be submitted for approval. Overall, subject to conditions, it is considered that the proposed development will preserve the street scene and is in accordance with policies COR2 of the Mid Devon Core Strategy (LP1) and DM2 of the LP3 DMP.

4. Social Infrastructure and services - sewage, water

A sewerage pumping station is identified within the scheme, adjacent to Plot 1. This will be the basis of discussions with the utility provider should planning consent be forthcoming. As regards to details of surface water it is recommended that a condition requiring full details is submitted for approval.

Concern has been expressed that there are insufficient community facilities to accommodate the proposed units until Area A of the Tiverton EUE is developed. The addition of 5 dwellings will not present an excessive burden on existing facilities including schools. Public transport is easily accessed to medical, shopping and leisure facilities located within the town centre.

5. Ecology

The proposal included the demolition of the garage and annex. An extended Phase 1 Habitat Survey has been undertaken for the site including an assessment for bats and their roosting. Overall, the Ecological Appraisal outlines that the proposal would have a low to moderate impact on fauna and flora. A recommendation from the appraisal is for an endoscope survey of the weatherboarding on the gable end of the bungalow adjoining the annex building. It is now proposed that the inner hall of the Annex is to be retained. Confirmation received from the Ecologist indicates that as a result of this, additional survey work is not required. Similarly, a European Protected Species Licence is not required.

Concern has been expressed about the loss of five trees as a result of this proposal. In acknowledging the retention of the larger group on the south eastern boundary, the retention of hedge bank boundary their loss is accepted. As such, Officers are satisfied that the proposal complies with Policy DM2 (c) of the Local Plan Part 3 - relating to the contribution of biodiversity assets; the NPPF and Countryside and Wildlife Act.

The erection of five dwellings is in accordance with policies COR 1, COR2 and COR13 of the Core Strategy. Subject to conditions, the development is considered to be acceptable in terms of highway safety and the effect on the visual quality of the street scene, and the effect on the amenity of neighbouring residents. The proposal is considered to comply with the relevant policies: COR1, COR2, COR8, COR9 and COR13 of the Mid Devon Core Strategy (LP1), AL/IN/3 and AL/TIV/2 of the AIDPD (LP2) and DM1, DM2, DM8 and DM14 of the Local Plan 3 (Development Management Policies).

CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice.
3. No development shall take place until a surface water drainage scheme has been submitted to and approved in writing by the Local Planning Authority. Unless it is demonstrated that it is unfeasible to do so, the scheme shall use appropriate Sustainable Urban Drainage Systems. The drainage scheme shall be designed so that there is no increase in the rate of surface water runoff from the site resulting from the development and so that storm water flows are attenuated. The development shall be carried out in accordance with the approved scheme.

4. Demolition should be carried out in such a manner as to minimise the potential for airborne nuisance, additional land contamination and/or the creation of additional contamination pathways either on the site or at adjacent properties/other sensitive receptors.
Prior to demolition commencing, a works plan and risk assessment shall be submitted for approval to the Local Planning Authority for consultation with Environmental Health Services. This plan and assessment should identify and risk-assess any potential hazardous material in above or below ground structures that will be removed or disturbed during demolition and measures to deal with these safely. All potentially hazardous materials should be assessed.
5. The proposed estate road, footways, 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.
6. No 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.
7. No development shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Planning Authority. The development shall be carried out at all times in strict accordance with the approved scheme, or such other details as may be subsequently agreed in writing by the District Planning Authority.
8. No development shall begin until details/samples of the materials to be used for all the external surfaces of the building(s) have been submitted to, and approved in writing by, the Local Planning Authority. Such approved materials shall be so used and retained.
9. No development shall begin until there has been submitted to, and approved in writing by the Local Planning Authority, a landscaping scheme, including details of any changes proposed in existing ground levels. All planting, seeding, turfing or earth reprofiling comprised in the approved details of landscaping shall be carried out prior to the first occupation of the development and any trees or plants which, within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species. The landscaping scheme shall be retained in accordance with the approved scheme.
10. Notwithstanding the provisions of Article 3 of The Town and Country Planning (General Permitted Development) Order 1995 as amended by the Town and Country Planning (General Permitted Development) Amendment (No.2) Order 2008 (or any Order revoking and re-enacting that Order with or without modification) no development of the types referred to in Classes B, C of Part 1 of Schedule 2, relating to the enlargement of a dwelling including an addition or alteration to its roof, shall be undertaken within the application site without the Local Planning Authority first granting planning permission.

REASONS FOR CONDITIONS

1. In accordance with the provisions of Section 51 of the Planning and Compulsory Purchase Act 2004.
2. For the avoidance of doubt and in the interests of proper planning.
3. To protect water quality and minimise flood risk in accordance with Flood Management Act.
4. In the interests of public health and protection of the environment.
5. To ensure that adequate information is available for the proper consideration of the detailed proposals.
6. 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.
7. To ensure, in accordance with paragraph 141 of the National Planning Policy Framework (2012) and the supporting text in paragraph 5.3 of the Mid Devon Local Plan Part 3: Development Management Policy DM27 (2013), that an appropriate record is made of archaeological evidence that may be affected by the development'.
8. To ensure that the development makes a positive contribution to the character and amenity of the area in accordance Policy DM2 of Local Plan Part 3 (Development Management Policies).
9. To ensure the use of materials and detailing appropriate to the character and appearance of the building in accordance and boundary treatments in accordance with Mid Devon Core Strategy (Local Plan 1) COR2 and Local Plan Part 3 (Development Management Policies) DM2, DM14.
10. To safeguard the residential amenity of neighbouring residents in accordance with Local Plan Part 3: (Development Management Policies) DM2.

INFORMATIVE NOTE

1. This permission shall not constitute an approval of the layout plan No. A090871-Sk02 submitted with the application, because it has been treated as being for illustrative purposes only.

REASON FOR APPROVAL OF PERMISSION/GRANT OF CONSENT

The erection of five dwellings is in accordance with policies COR 1, COR2 and COR13 of the Core Strategy. Subject to conditions, the development is considered to be acceptable in terms of highway safety and the effect on the visual quality of the street scene, and the effect on the amenity of neighbouring residents. The proposal is considered to comply with the relevant policies: COR1, COR2, COR8, COR9 and COR13 of the Mid Devon Core Strategy (LP1), AL/IN/3 and AL/TIV/2 of the AIDPD (LP2) and DM1, DM2, DM8 and DM14 of the LP3 (Development Management Policies).

Application No. 17/00948/FULL

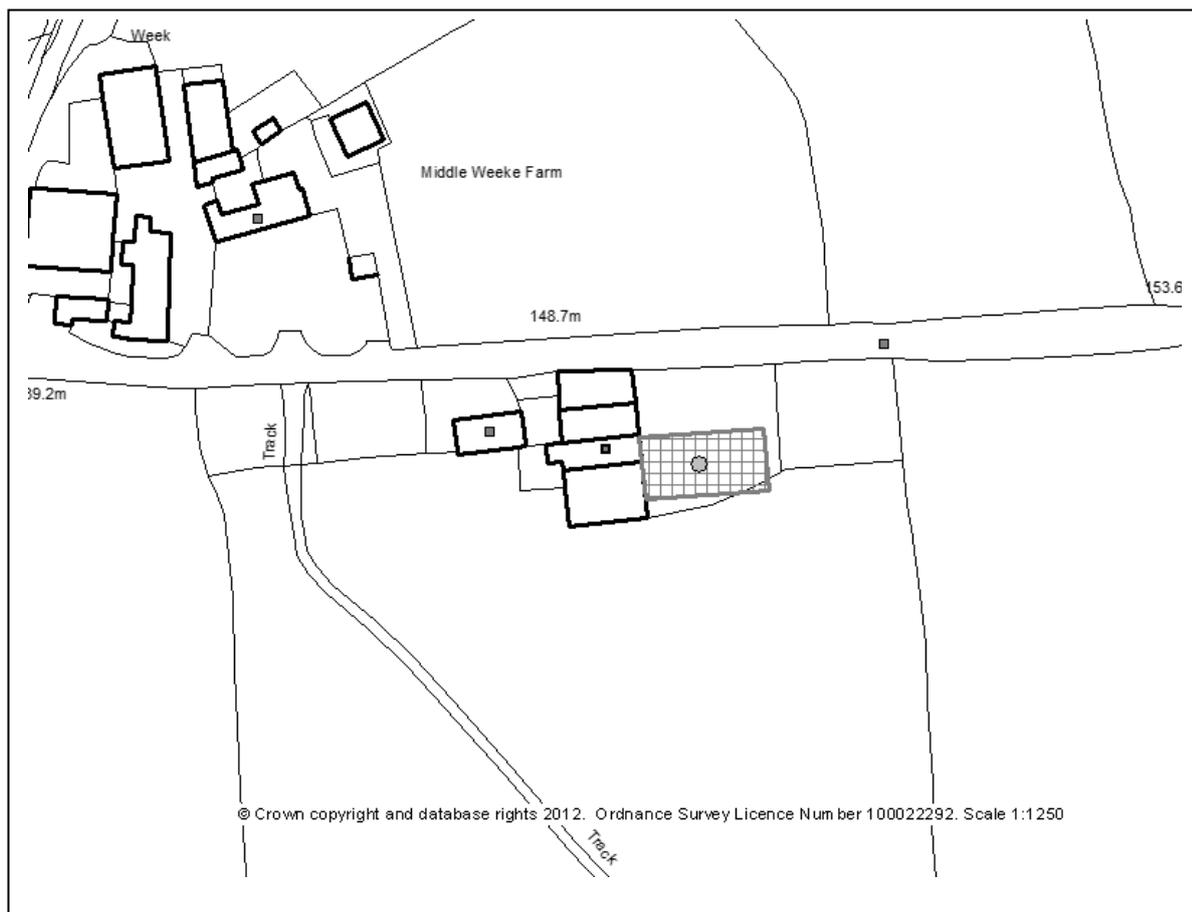
Grid Ref: 276287: 106191

Applicant: Mr & Mrs J Daw

Location: Land and Buildings at NGR 276310 106188 (Middle Weeke Farm)
Morchard Bishop
Devon

Proposal: Erection of an agricultural livestock building

Date Valid: 9th June 2017



Application No. 17/00948/FULL

RECOMMENDATION

Grant permission subject to conditions.

PROPOSED DEVELOPMENT

The proposed building is for livestock purposes. The site is directly adjacent to an existing farm building complex. The proposed building will attach to the existing group to create an L-shaped building and will be used a livestock & covered feed building to support the activities Middle Weeke Farm, Morchard Bishop.

The building is proposed with a footprint of some 387.31 sq m (27.43 m wide and 14.12m long), standing 5.5m to ridge (eaves height of 3.3m). The applicant proposes tantalised timber spaced boarding above concrete panels under a Profile 6 fibre cement sheeting roof in natural grey. The access is via the existing field access.

A public footpath runs to both the west and east of the site offering public viewpoints of the proposed development over and above that visible from the highway.

APPLICANT'S SUPPORTING INFORMATION

None

PLANNING HISTORY

None

DEVELOPMENT PLAN POLICIES

Mid Devon Core Strategy (Local Plan 1)

COR2 - Local Distinctiveness

COR9 - Access

COR18 - Countryside

Mid Devon Local Plan Part 3 (Development Management Policies)

DM1 - Presumption in favour of sustainable development

DM2 - High quality design

DM22 - Agricultural development

CONSULTATIONS

HIGHWAY AUTHORITY - 20th June 2017 - No objections

MORCHARD BISHOP PARISH COUNCIL - 4th July 2017 - Unanimously supported

ENVIRONMENTAL HEALTH - 19th June 2017 - No objections in terms of any environmental impact and/or contamination concerns, with following advisory note recommended.

Health and safety - No objection to this proposal enforced by HSE. Informative: There is a lack of information e.g. structural survey. There is a foreseeable risk of asbestos being present in these types of structure. A Refurbishment and Demolition Survey following HSG264 available at <http://www.hse.gov.uk/pUbns/priced/hsg264.pdf> should be carried out before work commences to identify precautions and legal requirements enforced by Health and Safety Executive.

REPRESENTATIONS

No letters of representation received raising the following issues at the time of writing this report.

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The building is to be located within an existing farmyard area which already benefits from an existing access which is considered acceptable to serve the new building. Therefore the main determining factors in this application are:

- 1. Policy**
- 2. Impact on the character and appearance of the area,**
- 3. Impact on amenity of residents**

1. Policy

The site is outside settlement limits and is therefore in the open countryside. Local and national planning policies make clear that new development in the countryside should be controlled. However, there is also scope for essential agricultural development to be permitted given the contribution agriculture makes to the character of the countryside and the necessity for such development to be located in rural locations. Therefore there is support for the principle of the application scheme from Policy COR18 of the Mid Devon Core Strategy 2007.

Policy DM22 requires that new, reasonably necessary, agricultural development supports farming activity and is sensitively located to limit any adverse effects on the living conditions of local residents and is well-designed, respecting the character and appearance of the area. This is considered that the submitted information appropriately justifies the proposed building on the basis of the aspirations of the enterprise.

It is considered that the application is justified in terms of it being required to support the activity on the holding, considerations in relation to the landscape impact and environmental and residential amenity are considered below.

2. Impact on the character and appearance of the area

The application scheme proposes a reasonably sized agricultural building which is of a standard design and is proposed to sit as part of an existing group of buildings, and it is not considered that the building would have a significant detrimental impact on the character and appearance of this rural environment (it is not a designated landscape).

From the south and east, there is a public footpath which runs parallel to the site and would provide reasonably close views of the proposed building and the farm yard generally. However, views of the proposed building would not be unduly detrimental to the landscape, particularly bearing in mind the existing buildings and farming paraphernalia already on the site.

Whilst the proposed development will have an additional impact on the landscape, it is not sufficiently harmful to warrant refusal of the application, particularly in a non-designated landscape. The need for a landscaping condition has been carefully considered and it is considered that in this instance it is not necessary, due primarily to the landscaping surrounding the site and the existing buildings on the site.

3. Impact on amenity of residents

As the building is to be used for livestock, the relationship with residential properties that may be unrelated to the agricultural enterprise has been considered.

There would appear to be an unrelated residential property to the west of the proposed building some 170m away. However, there are a number of older livestock buildings on the applicant's holding that are closer to this property. These buildings (which may or may not be used less) would appear to house livestock and would therefore have more of an impact on the living conditions of any neighbouring residential dwellings than the proposed development.

With this in mind, it is considered that the proposal would not significantly affect the living conditions of the occupants of that property. Therefore, in that regard, the application will not cause harm to the privacy or amenity of any neighbouring properties.

Conclusion

There are no other material considerations that would indicate that planning permission should not be granted in accordance with the development plan. The Council are satisfied that the proposed development complies with the policies of the adopted Development Plan, and therefore approval can be recommended subject to the following conditions.

CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice.
3. No external lighting shall be installed on the building without the prior written consent of the Local Planning Authority.

REASONS FOR CONDITIONS

1. In accordance with the provisions of Section 51 of the Planning and Compulsory Purchase Act 2004.
2. For the avoidance of doubt and in the interests of proper planning.
3. To safeguard the living conditions of the occupiers of nearby properties and to protect the rural environment from unnecessary light pollution in accordance with policy DM22 of Local Plan Part 3 (Development Management Policies) and the National Planning Policy Framework.

REASON FOR APPROVAL OF PERMISSION/GRANT OF CONSENT

It is considered that the proposed development appears to be necessary for agricultural purposes and it would not result in harm to the character and/or visual amenities of the area. The design of the new building is purely functional and has an agricultural appearance. The living conditions of nearby residential properties would not be harmed. The proposal therefore accords with the aims and objectives of restricting development in the countryside whilst maintaining the presumption in favour of suitable agricultural works to aid the rural economy.

On this basis the proposal complies with Policies COR2 and COR18 of the Mid Devon Core Strategy and policies DM2 and DM22 of the Mid Devon Local Plan (LDF) Local Plan Part 3: (Development Management Policies) and government policy as contained in the National Planning Policy Framework.

Application No. 17/01020/FULL

Grid Ref: 295557: 112671

Applicant: Mr A Busby

Location: 7 Market Walk
Bampton Street
Tiverton
Devon

Proposal: Temporary Change of Use for 1 year from A1 use (Retail) to A1 (Retail) and D2 (Assembly and Leisure) use

Date Valid: 22nd June 2017



Application No. 17/01020/FULL

RECOMMENDATION Grant 1 year temporary permission

PROPOSED DEVELOPMENT

Temporary change of use for 1 year from A1 use (Retail) to A1 (Retail) and D2 (Assembly and Leisure) use

APPLICANT'S SUPPORTING INFORMATION

Scaled drawing of ground floor layout
Location plan
Asbestos survey
Planning statement
Email exchange re. physical alterations

PLANNING HISTORY

93/01950/FULL - PERMIT date 23rd December 1993 - Installation of new shopfront

DEVELOPMENT PLAN POLICIES

Mid Devon Local Plan Part 3 (Development Management Policies)
DM16 - Town centre development

CONSULTATIONS

Tiverton Town Council - "support providing returned to retail after leisure complex is refurbished"

REPRESENTATIONS

None received at the time of writing this report

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The material considerations to be taken in to account in the determination of this application are:

- 1. Impact on the vitality and viability of Tiverton town centre;**
- 2. Impact on the character and appearance of the area**

This is an application relating to a small retail unit in the Market Walk precinct in central Tiverton, part of the identified 'primary shopping area'. The proposal is to temporarily change the use of the unit from retail, to retail, assembly and leisure for a period of one year.

Policy DM16 of the Mid Devon Local Plan (Part 3 Development Management policies) identifies the importance of primary shopping areas being protected and retained for retail shopping. The three requirements are that the role and character of the primary shopping area is not undermined, the vitality and viability of the area is not harmed and that there is no detrimental impact on the visual character and amenities of the surrounding area. Also, a change from retail in the primary shopping area must take into account the size of the unit, its location, the number of similar uses nearby, the vacancy history of the building and immediate area, environmental concerns and the character of the area. However, it also acknowledges the importance of diverse town centre uses, through provision of a variety of uses and offers.

Number 7 Market Walk is a small retail unit on the south side of Market Walk. The unit has been vacant for several years and was last used as a jeweller's shop. The proposed temporary change of use is to allow Mid Devon District Council (the owner of the unit) to use the space for leisure classes whilst an extension is

being built at the Exe Valley Leisure Centre approximately 1 mile away. Physical works to create this temporary use are minimal - no structural works are required but a dividing partition has been removed and various updating and decorative works have been carried out. There are no structural alterations that would inhibit the return of the unit to retail use after the one year of leisure use has lapsed. The proposed changes to the unit would not result in any detrimental impact on the character or appearance of the area and the use of the unit would be likely to provide a more active and interesting frontage to Market Walk in accordance with the environmental criteria within policy DM2 Local Plan Part 3 (Development Management Policies).

Whilst the character of this precinct is clearly one of retail, this unit has been vacant for some time - three other units along Market Walk are also vacant at present. Number 7 is a very small unit and others in the immediate vicinity are currently used for retail purposes (including a sports goods retailer nearby). It is considered that filling a vacant unit that will generate additional footfall in the precinct and an increased sense of busyness and vitality, will contribute positively to the local retail environment. The temporary nature of the consent will give an opportunity to the local planning authority to assess the impact of the loss of the retail unit and equally, any positive impacts in the area.

It should be noted that this application has been applied for, described as and also been advertised as "Temporary change of use from A1 use (retail) to A1 (retail) and D1 (assembly and leisure) use". D1 use is in fact 'non-residential institution' - D2 use is assembly and leisure. The application has been amended and it is considered that the description accompanying the use class during advertisement of the application makes the proposed use sufficiently clear. No objections were received during the course of the application.

Balancing the loss of the retail unit against the temporary nature of the consent, size of the unit and its previous vacancy it is considered that this application does comply with policy DM16 of the Mid Devon Local Plan (Part 3 Development Management policies) and should therefore be granted consent.

CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The use hereby permitted shall be permitted for one year only from the date of commencement of use. Notification of the date of commencement of use shall be given in writing to the local planning authority.

REASONS FOR CONDITIONS

1. In accordance with the provisions of Section 51 of the Planning and Compulsory Purchase Act 2004.
2. In order to restrict the consented use period for one year only, to protect and preserve the primary shopping area of Tiverton town centre in accordance with policy DM16 of the Mid Devon Local Plan (Part 3 Development Management policies).

INFORMATIVE NOTE

1. Please note that certain types of banners and advertisements may require Advertisement Consent. You are advised to check what works can and cannot be carried out without consent before commissioning or erecting signage.

REASON FOR APPROVAL OF PERMISSION/GRANT OF CONSENT

The proposed temporary change of use is considered to have minimal impact on the primary retail area of Tiverton given its size, the current vacancy rate of the precinct, the temporary nature of the consent and the nature of the use proposed. The development is therefore considered to be acceptable and in accordance with the Mid Devon Local Plan (Part 3) policy DM16 National Planning Policy Framework and should be granted permission.

Application No. 17/01024/FULL

Grid Ref: 295573: 112689

Applicant: Mr A Busby, MDDC

Location: 21 - 22 Market Walk
Bampton Street
Tiverton
Devon

Proposal: Temporary Change of use for 1 year from retail (Class A1) to Assembly & Leisure (Class D2)

Date Valid: 22nd June 2017



Application No. 17/01024/FULL

RECOMMENDATION Grant 1 year temporary permission

PROPOSED DEVELOPMENT

Temporary change of use for 1 year from A1 use (Retail) to A1 (Retail) and D2 (Assembly and Leisure) use

APPLICANT'S SUPPORTING INFORMATION

Scaled drawing of ground floor layout
Location plan
Asbestos survey
Planning statement
Email exchange re. physical alterations

PLANNING HISTORY

91/01842/FULL - PERMIT date 7th May 1993 - New retail units with storage above, alterations to existing buildings & extension to form offices, and upgrading of pedestrian shopping thoroughfare
93/00355/FULL - PERMIT date 27th July 1993 - Construction of new shop fronts
05/01906/FULL - PERMIT date 9th December 2005 - Change of use of first and second floors from office use to residential

DEVELOPMENT PLAN POLICIES

Mid Devon Local Plan Part 3 (Development Management Policies)

DM16 - Town centre development

CONSULTATIONS

Tiverton Town Council - "support providing returned to retail after use for the leisure centre"

REPRESENTATIONS

None at the time of writing this report

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The material considerations to be taken into account in the determination of this application are:

- 1. Impact on the vitality and viability of Tiverton town centre**
- 2. Impact on the character and appearance of the area**

This is an application relating to a medium sized retail unit in the Market Walk precinct in central Tiverton, part of the identified 'primary shopping area'. The proposal is to temporarily change the use of the unit from retail, to retail and assembly and leisure for a period of one year.

Policy DM16 of the Mid Devon Local Plan (Part 3 Development Management policies) identifies the importance of primary shopping areas being protected and retained for retail shopping. The three requirements are that the role and character of the primary shopping area is not undermined, the vitality and viability of the area is not harmed and that there is no detrimental impact on the visual character and amenities of the surrounding area. Also, a change from retail in the primary shopping area must take into account the size of the unit, its location, the number of similar uses nearby, the vacancy history of the

building and immediate area, environmental concerns and the character of the area. However, it also acknowledges the importance of diverse town centre uses, through provision of a variety of uses and offers.

Number 21-22 Market Walk is a medium sized retail unit on the south side of Market Walk. The unit has been vacant for approximately 4 months and was last used as a charity shop. The proposed temporary change of use is to allow Mid Devon District Council (the owner of the unit) to use the space for leisure classes whilst an extension is being built at the Exe Valley Leisure Centre approximately 1 mile away. Physical works to create this temporary use are minimal - no structural works are required but various updating and decorative works have been carried out and a partition has been removed to create one large room with small kitchenette and WC. There are no structural alterations that would inhibit the return of the unit to retail use after the one year of leisure use has lapsed. The proposed changes to the unit would not result in any detrimental impact on the character or appearance of the area and the use of the unit would be likely to provide a more active and interesting frontage to Market Walk in accordance with the environmental criteria within policy DM2 of the Local Plan Part 3 (Development Management policies).

Whilst the character of this precinct is clearly one of retail, this unit has been vacant for approximately four months - three other units along Market Walk are also vacant at present. Number 21-22 is a medium sized unit and others in the immediate vicinity are currently used for retail purposes (including a sports goods retailer nearby). It is considered that by filling a vacant unit this could generate additional footfall in the precinct and an increased sense of busyness and vitality, contributing positively to the local retail environment. The temporary nature of the consent will give an opportunity to the local planning authority to assess the impact of the loss of the retail unit and equally, any positive impacts in the area. Of particular note is the size of this retail unit - it is relatively large for both the precinct and the town centre and careful consideration should be given to this loss for any subsequent application for a longer period of use that is not retail.

It should be noted that this application has been applied for, described as and also been advertised as "Temporary change of use from A1 use (retail) to A1 (retail) and D1 (assembly and leisure) use". D1 use is in fact 'non-residential institution' - D2 use is assembly and leisure. The application has been amended and it is considered that the description accompanying the use class during advertisement of the application makes the proposed use sufficiently clear. No objections were received during the course of the application.

Balancing the loss of the retail unit against the temporary nature of the consent and its previous vacancy it is considered that this application does comply with policy DM16 of the Mid Devon Local Plan (Part 3 Development Management policies) and should therefore be granted consent.

CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The use hereby permitted shall be permitted for one year only from the date of commencement of use. Notification of the date of commencement of use shall be given in writing to the local planning authority.

REASONS FOR CONDITIONS

1. In accordance with the provisions of Section 51 of the Planning and Compulsory Purchase Act 2004.
2. In order to restrict the consented use period for one year only, to protect and preserve the primary shopping area of Tiverton town centre in accordance with policy DM16 of the Mid Devon Local Plan (Part 3 Development Management policies).

INFORMATIVE NOTE

1. Please note that certain types of banners and advertisements may require Advertisement Consent. You are advised to check what works can and cannot be carried out without consent before commissioning or erecting signage.

REASON FOR APPROVAL OF PERMISSION/GRANT OF CONSENT

The proposed temporary change of use is considered to have minimal impact on the primary retail area of Tiverton given the current vacancy rate of the precinct, the temporary nature of the consent and the nature of the use proposed. The development is therefore considered to be acceptable and in accordance with the Mid Devon Local Plan (Part 3) policy DM16 National Planning Policy Framework and should be granted permission.

Mrs Jenny Clifford
Head of Planning and Regeneration

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Major Applications with no Decision

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

Item No.	Weeks	TARGET DATE	REFVAL	PROPOSAL	LOCATION	NAME	Expected Decision Level	
							Delegated	Committee
1	2	13/10/2017	17/01170/MOUT	Outline application for the erection of up to 200 dwellings, together with associated infrastructure and other works, including vehicular access, on land comprising northern portion of Phase 1 of the North West Cullompton Urban Extension	Land at NGR 302186 108607 North of Rull Lane and to The West of Willand Road Cullompton Devon	Ms Tina Maryan	COMM	COMM
2	3	04/10/2017	17/01090/MOUT	Outline for the erection of up to 60 dwellings with associated access, parking, open space, landscaping and infrastructure (including retaining works)	Land and Buildings at NGR 281938 100425 (Adjacent Brookdale, Threshers) Hollacombe Devon	Miss Helen Govier	DEL	
	3	03/10/2017	17/01045/MFUL	Erection of 2 glasshouses and a packaging building, formation of car parking, SuDs pond, access road, and associated infrastructure	Land and Buildings at NGR 304975 112145 (Hitchcock's Business Park) Uffculme Devon	Miss Hannah Cameron	DEL	
	4	27/09/2017	17/00982/MFUL	Erection of 54 dwellings, including associated public open space, landscaping and all other associated external works	Land at NGR 284671 100838 Cromwells Meadow Crediton Devon	Mr Simon Trafford	COMM	COMM
	5	20/09/2017	17/00886/MOUT	Outline for the erection of 30 dwellings and new vehicular and pedestrian accesses	Land at NGR 305578 112053 Uffculme Road Uffculme Devon	Mrs Alison Fish	COMM	COMM
	5	19/09/2017	17/00826/MFUL	Erection of 3 poultry houses and ancillary buildings following demolition of 2 existing poultry units	Land at NGR 291466 112201 Jurishayes Witleigh Devon	Miss Lucy Hodgson	DEL	
	6	15/09/2017	17/00942/MOUT	Outline for the erection of upto 50 dwellings with associated access	Land at NGR 296202 112164 Exeter Hill Tiverton Devon	Miss Lucy Hodgson	COMM	COMM
	6	13/09/2017	17/00924/MFUL	Change of use of agricultural buildings to Class B1/B8 (Commercial Use) with associated yard and parking areas, landscaping and alterations to access	Land and Buildings at NGR 304296 107112 Newlands Farm Cullompton Devon	Mr Daniel Rance	COMM	COMM

<i>Item 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>
9	7	06/09/2017	17/00769/MFUL	Demolition of existing commercial building (Use Class B1, B2, B8) and erection of replacement commercial building (Use Class B1, B2, B8) with parking area	Building at NGR 304888 112428 Hitchcocks Business Park Uffculme Devon	Mr Daniel Rance	DEL	
10	8	29/08/2017	17/00878/MOUT	Outline for the erection of up to 16 dwellings with associated access, landscaping and other ancillary development	Land at NGR 292294 101802 (South of Broadlands) Thorverton Devon	Miss Lucy Hodgson	COMM	COMM
11	9	23/08/2017	17/00746/MARM	Reserved Matters for the erection of 22 dwellings following Outline approval 16/00918/MOUT	Land at NGR 313224 113301 (West of Conigar Close) Culmstock Road Hemyock Devon	Ms Tina Maryan	DEL	
12	9	24/08/2017	17/00855/MFUL	Erection of extension to garden centre to form additional retail space, pallet store, covered entrance and covered outdoor areas and erection of a separate warehouse following removal of polytunnels (1,567sqm total)	Bow Garden Centre Bow Crediton Devon EX17 6LA	Mr Simon Trafford	COMM	COMM
13	11	10/08/2017	17/00733/MFUL	Erection of an agricultural livestock building (1350 sq.m.)	Land at NGR 270036 111582 (Southcott Farm) Chawleigh Devon	Miss Helen Govier	DEL	
14	13	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	Mr Daniel Rance	COMM	COMM
15	20	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
16	22	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
17	26	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 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>
18	29	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
19	36	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
20	38	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
21	44	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

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Application No. 17/00501/FULL

Application No. 17/00501/FULL

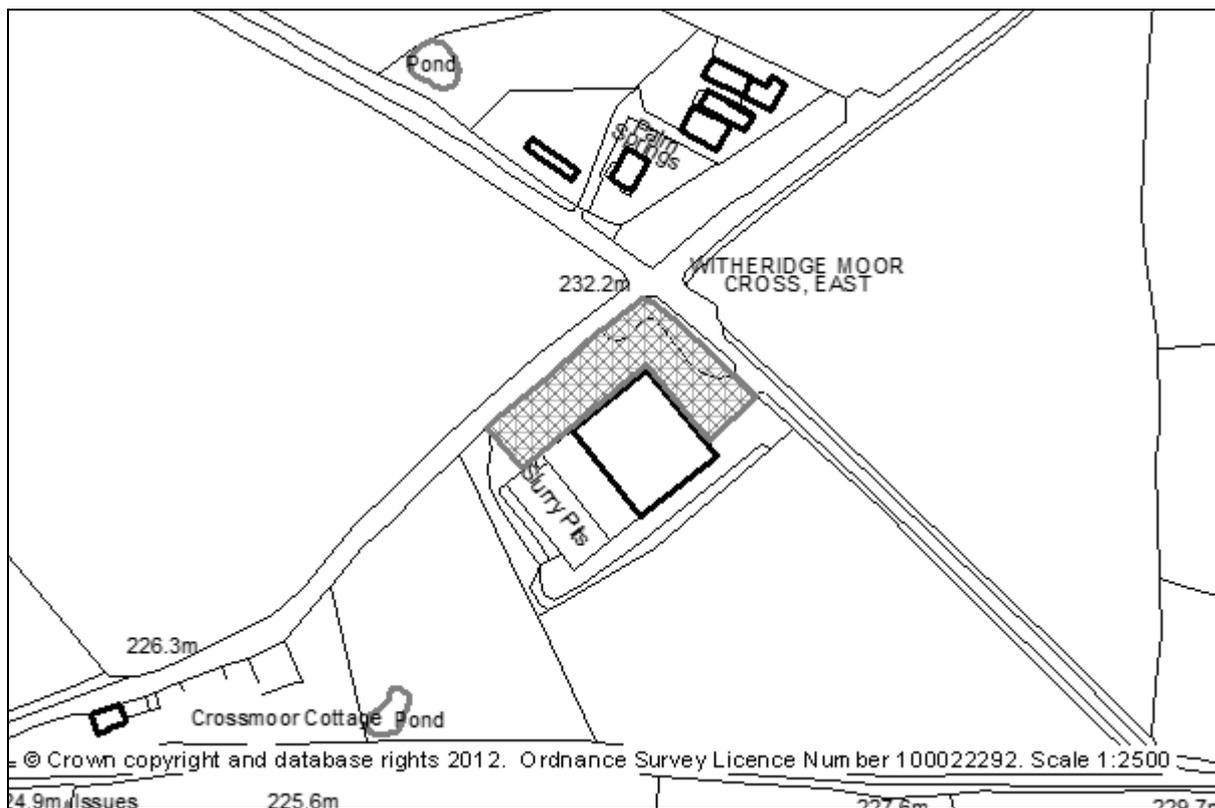
Grid Ref: 286484 : 114715

Applicant: Mr Winston Reed

Location: Land and Buildings at NGR 286484 114715 (Cross Parks Farm)
Nomansland
Devon

Proposal: Erection of an agricultural storage building

Date Valid: 1st June 2017



REPORT OF THE HEAD OF PLANNING AND REGENERATION

17/00501/FULL - ERECTION OF AN AGRICULTURAL STORAGE BUILDING - LAND AND BUILDINGS AT NGR 286484 114715 (CROSS PARKS FARM) NOMANSLAND DEVON

Reason for Report

This application has been called in by Cllr Andrew Moore for the following reason:

1. To ask that the Planning Committee consider whether the development is appropriately-scaled for the proposed traditional farm operation with suitable controls to prevent misuse as part of off-site AD or other large-scale, non-farming operations.

RECOMMENDATION:

Planning permission is granted subject to conditions.

Relationship to Corporate Plan

Environment:
Protecting the natural environment

Economy:
Business development and growth

Financial Implications

Nil - however if members are minded to refuse the application there could be cost implications of defending an appeal. The applicant may make an application for costs on any appeal against the Council and such costs claims are made by demonstrating that there has been unreasonable behaviour. That being the case, Members must be able to clearly justify each and every reason for refusal in line with the development plan and all other material considerations.

Legal Implications

Nil

Risk Assessment

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

Consultations carried out with

1. Templeton Parish Council - 22nd June 2017 - Templeton Parish Council object to this application on the following grounds:-

There has been a history of Nuisance with regard to both Odour emissions and Noise from this particular site. At present there is an ongoing problem with residents complaining of emissions from liquid digestate being imported and exported from Cross Parks slurry/digestate pit, which is presently under investigation by your Council's Environmental Department in consultation with Public Health England. Two nearby residences are within 80 metres and approximately 100 metres of the present operating facilities.

It is not clear whether this Application is for servicing Cross Parks itself or as an integral support for the servicing operations we understand this Applicant performs, for 8 Greener For Life Group Anaerobic Digesters across the South West.

If this application refers to Cross Parks only - any additional livestock or storage facility approved will only exacerbate the disproportionate stocking and manure disposal/land ratio required to enable the applicant to adhere to farming "Best Practice" and "NVZ restrictions" on this small 52 Acre holding. Although agent states applicant operates 2000 acres the nearest additional lands to this small holding (Cleave Farm and associated lands are at present in Administration).

If this proposed further addition to the present building complex at Cross Parks is part of the applicants wider operation involving Energy production from the AD's we would point out that we have already raised this as a potential "change of use" case with your Planning Department, presently under investigation. Templeton Parish Council referenced ENF/1,6/00269/NUDRU and the proximity of nearby residences to Pulsards, Pennymoor non-permitted excavated pit about which officers justified the Council's actions as "in order to protect the amenity living condition of nearby residential properties".

Given the size of the bigger operation and the present ongoing problems at this site - should Council consider granting this application, we ask that a full EIA and Odour Assessment is done to ensure the Council are acting in accordance with all relevant Human Rights and Environmental requirements.

Given the existing problems of odour from the liquid digestate on this site - if this Application is granted how will Council prevent proposed building being utilised for storage of digestate fibre which can be classified as an agricultural bedding as well as imposing suitable mitigating conditions to ensure no additional odour nuisance to neighbours?

We respectfully ask Council to be fully aware and pay particular attention to their increased devolved responsibilities with regard to the cumulative disposal/use and effect of industrial farm manures/slurries and digestates being produced in and imported to the Mid Devon District Council area; now that under changes made by central government to EU regulations these former "wastes" no longer come under the remit of Devon County Council but Local Planning Authorities.

We would point out further that these former 'wastes' are only disposable as fertilizers (non wastes) on agricultural land to the benefit of soil and crops which is controlled by voluntary agricultural "Best Practice" with reference to DEFRA Planet programme. Therefore, any operation not utilising manures/digestates as a fertilizer become a "waste disposal operation" requiring a Transfer Operators Licence and various Licences/permits. Finally it seems apparent that with no restrictions on importing/exporting or interchanging between the wider various operations under the numerous companies operated by the applicant; there is a direct relevance to the amount of suitable, sufficient, sustainable land availability upon which to spread the cumulative volume of fertilizer in order to ensure all responsibilities to local communities and the environment.

2. Highway Authority - 26th July 2017 - Accepts improved visibility over the site access to the public highway. The junction improvements cannot be required but should be added as an advisory note.
3. Environmental Health - 29th June 2017 - Noise and other nuisances: Recommends it is conditioned that none of the following materials can be stored in the proposed building:
 - Any recycled manure solids
 - Any Anaerobically Digested material
 - Any Composted Bedding MaterialsNo animals are to be housed within the building unless the North West and north east elevations are fully closed of a solid construction.

1.0 PROPOSED DEVELOPMENT

- 1.1 Proposed is the erection of an agricultural storage building, to be used primarily for bedding storage (straw), with a single bay identified as an isolation unit. The building will have a length of 54 metres, a width of 9.14 metres an eaves height of 6 metres and a ridge height of 7.57 metres and will comprise of nine 6 metre bays. The building will have concrete panels to 3 metres and box profile steel sheet cladding on green on the north east, south west and North West elevations. The south east elevation will remain open, with gates to the single isolation pen. The mono-pitch roof will be covered with box profile steel sheets in juniper green.

2.0 APPLICANT'S SUPPORTING INFORMATION

2.1 Plans; Planning Statement; Supporting Emails

3.0 REPRESENTATIONS

- 3.1 Six letters of objection have been received in conjunction with this application, they are summarised as follows:
 - 3.1.1 Object to the storage of digestate whether for bedding or otherwise, would cause further odour problems.
 - 3.1.2 Rural character or junction should not be compromised for the sake of energy production.
 - 3.1.3 Site already in used as an industrial storage facility for liquid digestate from AD's. Concern proposal will be for storage facilities for AD's.
 - 3.1.4 Concern over more HGV and heavy traffic movements.
 - 3.1.5 Noise and nuisance concerns. Including from emissions from vehicles and tractors running for 8 ½ hours a day, including antisocial working hours.
 - 3.1.6 Small site in close proximity of residential properties (80 metres) and will bring the

building within 50 metres of the neighbouring property. The three huge barns are out of character for the area and can be seen for miles.

- 3.1.7 Proposal will block light to the garden of the neighbouring property.
- 3.1.8 Site operations seriously effecting health of neighbours.
- 3.1.9 Additional building will only increase the already disproportionate amount of manure and digestate being stored near to neighbours.
- 3.1.10 Numerous former dairy buildings available at Cleave Farm, including isolation/calving facilities. No point in having an isolation unit which is in close proximity of the present complex.
- 3.1.11 Current site can house 160 cows, not 100.
- 3.1.12 Object to further development of this small site already housing intensive livestock buildings. Any free space should be used for mitigation including landscaping.

4.0 MATERIAL CONSIDERATIONS AND OBSERVATIONS

4.1 SITE DESCRIPTION AND PLANNING POLICY

The site is located in the open countryside and forms part of a small agricultural complex comprising of three buildings, a calving shed, and two cubicle buildings, all attached to one another. Behind the buildings is a feeding yard and beyond that, a slurry pit. The site itself is at Witheridge Moor Cross East, located to the north west of Templeton and is accessed from an unclassified highway. Cross Parks Farm comprises of 62 acres and is used to graze dairy replacement heifers for their first season and over their second winter, they calve at the site before moving on to the applicants dairy enterprise.

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

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

As such, there is support in principle for agricultural development.

4.2 NEED

The proposed building is required primarily for bedding storage to serve the livestock buildings already on the site. At present there is no storage for straw bedding on the site and therefore whenever bedding is required it has to be brought on to the site from elsewhere, increasing traffic movements and resulting in inefficient working practices. Previously the applicant has obtained straw from Oxfordshire that is trickle delivered when required to a single storage bay available for straw storage at Cleave Farm. However, the applicant is growing 300 acres of corn and wheat this year to produce straw and requires on site storage for the straw to serve this unit. Although the buildings at Cross Parks are currently vacant, this is due to the cows being out at grass over the summer months, as this is a dry cow unit only, the cows will return to the sheds to calve and during the winter months when the weather deteriorates. The buildings at Cross Parks house 150 adult cows. When the cows are housed at Cross Parks there is no space available within the middle calving shed or side cubicles for any bedding storage.

An objection has been made about the availability of other buildings at Cleave. However, the applicant has confirmed that Cleave is currently being prepared for dairy cows to return. The buildings at Cleave comprise of one storage shed which is in use and at capacity, a vehicle maintenance shed, silage clamp, milking parlour and the remainder of the buildings are cubicles used for housing cows. There are no buildings reasonably available or suitable for additional straw storage at Cleave. In addition, the two buildings granted planning permission in 2009 for cattle isolation and general agricultural uses have not been built or implemented. In any case, the dairy unit at Cleave has a separate isolation need to the type of isolation need applied for in this instance.

Overall, it is your Officer's opinion that the proposed building is reasonably necessary to support the farming activities on the holding.

4.3 DESIGN AND LOCATION

The proposed building has been designed for the storage of straw, with easy access to each of the bays for machinery to take straw from the building. In addition, there is a gated bay for livestock isolation that is ventilated by virtue of its open elevation and enclosed by gates to securely house livestock when isolation is required. The materials used for the building have been guided by the comments of Environmental Health. Enclosing the north east, south west and North West mitigate noise and odour impacts of the livestock housing element on the occupiers of the neighbouring properties.

In respect of the isolation element, this is to isolate cows who have had a difficult birthing in the main open barn, so they can recover whilst isolated from the remainder of the herd. The proposal will therefore improve animal welfare provision on the holding. As such, there is not a need for the isolation unit to be a distance from the main building, as it is not used to prevent the spread of disease.

In terms of the buildings location, this site has been proposed as it will ensure the new building is contained within the existing agricultural yard complex. The building will be viewed within the context of the existing agricultural buildings on the site. The proposed site ensures that the agricultural development remains contained, and limits the visual impact of the proposal. The alternative sites available are in more visually prominent positions and would result in the sprawl of built form from this unit into open fields surrounding the site. The site boundaries comprise of mature hedgerow and trees that will help to screen the proposal within its surroundings.

Overall the design of the building is considered to be suitable for its proposed purpose and the location contains the development within the existing agricultural complex, reducing the visual impact of the proposal.

4.4 HIGHWAYS

The Highway Authority does not object to the proposed application and consider that the proposal is not likely to result in any increase in the total traffic movements to and from the site due to the existing arrangements for trickle delivering of straw to the site when needed. The bulk delivery of straw to the building and movements to collect and distribute the straw is considered to be acceptable, subject to improvements to the site access to ensure adequate visibility in both directions. A condition is suggested to ensure adequate visibility is in place prior to the first use of the building.

Whilst the Highway Authority recognises that the junction improvements to Witheridge Moor Cross East is desirable, this would result in the removal of a substantial amount of hedgerow

which screens the site from the road and the neighbouring properties. The junction improvements whilst desirable are not required to facilitate the current proposal and are therefore not conditioned. The Highway Authority have requested that the junction improvements are included as an advisory note.

4.5 IMPACT ON RESIDENTIAL AMENITY

The existing agricultural complex is within reasonably close proximity of two neighbouring properties, and will bring the proposal within approximately 36 metres of Palm Springs to the north and in excess of 100 metres from Crossmoor Cross Moor Farm. It is accepted that the proposal will result in agricultural development in closer proximity of the neighbouring property Palm Springs, however, this area is currently functioning as an agricultural yard area with calves in temporary buildings. The comments made by Environmental Health have been addressed by changing the design of the building so that the sides are full closed and of a solid construction to protect the residential amenity of the occupiers of the neighbouring properties from noise and odour associated with livestock housing. In addition, the isolation bay has been moved to the south western end so that the livestock housing area is further away from the closest property.

Concerns have been raised about the use of the building for the storage of digestate material, specifically, recycled manure solids as bedding for cattle. Environmental Health has requested the imposition of a condition restricting the items that can be stored in the building, specifically excluding:

Any recycled manure solids

Any Anaerobically Digested material

Any Composted Bedding Materials

A condition is suggested below on this basis.

In addition, the applicant has made clear that the digestate produced on the wider landholding is cross species digestate. Therefore, the digestate produced does not meet with the 19 conditions specified by DEFRA that must be complied with in order for recycled manure solids to be used as cattle bedding. As such, the digestate produced at the current time cannot be used as animal bedding, and so the building proposed cannot be used for this purpose.

Overall, despite the proximity, it is not considered due the design and proposed use of the building that it will have an unacceptably adverse impact on the living conditions of local residents.

4.6 ENVIRONMENTAL IMPACTS

It is not considered that the development will have an unacceptable adverse impact on the environment. Surface water associated with the proposed building will be disposed of via a soakaway.

Concerns have been raised about the storage of digestate and the spreading of materials including manure on the small land holding. The proposal will not result in an increase of waste produced by the unit over and above the existing levels, as the livestock housing element of the proposal is for the isolation of cows, when required, that would normally occupy the main buildings on the site. The proposal will therefore not result in any increase to the livestock numbers on site.

CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice.
3. Prior to the first use of the building hereby approved access visibility of 2.4m back along the centre line of the access and extent to a point 45m to the east and 25m to the west with no obstruction greater than 600mm above the road surface shall be provided. A plan showing the access visibility shall be submitted to and approved in writing prior to the visibility splays being provided, the visibility splays shall be provided in accordance with the approved plan and retained and maintained as such thereafter.
4. The building hereby approved shall not be used for the storage of any of the following materials at any time:
 - .Any recycled manure solids
 - Any Anaerobically Digested material
 - Any Composted Bedding Materials
5. The building shall only be used to house livestock in the bay identified in the submitted floor plan, drawing number 4.2 received by the Local Planning Authority on the 17th of July.

REASONS FOR CONDITIONS

1. In accordance with the provisions of Section 51 of the Planning and Compulsory Purchase Act 2004.
2. For the avoidance of doubt and in the interests of proper planning.
3. To ensure adequate visibility for those using the site entrance, in the interests of highway safety.
4. In order to safeguard the residential amenity of the occupants of the neighbouring properties in accordance with policy DM22.
5. To safeguard the amenity of the occupiers of the neighbouring residential properties in accordance with policy DM22. In addition, the application has been considered on this basis only and the waste associated with additional animal housing has not been considered.

INFORMATIVE NOTE

1. At the junction the applicant should seek to provide 2.4m back along the highway from the give way lines and extend to a point on the nearside kerb edge of 45m in both directions on each of the approaches with no obstruction greater than 600mm. This will necessitate removal of bank and hedge row but will provide significant benefit to all road users and avoid conflict with the agricultural vehicles.

REASON FOR APPROVAL OF PERMISSION/GRANT OF CONSENT

The proposed erection of an agricultural storage building to include an isolation unit is considered to be acceptable in policy terms, subject to the conditions imposed. The overall design and scale of the building is acceptable given its context, and the proposed building is considered reasonably necessary for the purposes of agriculture and it is not considered that it would adversely affect the visual amenities of the area. Given the site location in relation to its surroundings, it is not considered the application scheme would result in unacceptable adverse impacts to the privacy or amenity of the occupiers of any neighbouring properties. It is not considered that the application scheme will adversely affect any ecological interests that may be present at the site, nor would it result in an unacceptable traffic impact on the local road network. As such the proposal is considered to comply with policies COR2 and COR18 of the Mid Devon Core Strategy 2007, DM2, DM22 of the Local Plan Part 3 (Development Management Policies) and Part 3 of the National Planning Policy Framework.

Author and Contact for any more information

Miss Hannah Cameron Planning Officer
Tel 01884 234218

Background Papers

Local Plan, NPPF

File Reference

17/00501/FULL

Circulation of the Report

Cllrs Richard Chesterton
Members of the Planning Committee

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AGENDA ITEM

PLANNING COMMITTEE
9th August 2017

REPORT OF THE HEAD OF PLANNING AND REGENERATION

17/00353/FULL

BACKGROUND:

This is a full application for the erection of 6 affordable dwellings consisting of 4 x 2 bed houses and 2 x 3 bed houses. The existing railway dissects Burlescombe and the application site is located to the south of the railway on land located between the church at the top of the hill and the village hall towards the bottom of the hill. It is on land which bounds the main road through the village and direct access to the parking area is proposed. The access is located centrally within the site with a terrace of 3 units proposed on either side. The application site comprises part of an agricultural field and is boarded to the north and east by the remainder of the field. To the west is the existing access into the field (to be retained) and the dwelling known as 'Oakfield'. The road and houses to the south and west are set down at a lower level than the application site, whilst the land to the east continues to rise. The proposed development includes a communal parking area, front and rear gardens for each unit and a pedestrian footpath along the site frontage.

REASON FOR REPORT: To consider the reasons for refusal proposed by the Planning Committee at the meeting of 14TH June 2017 in light of further advice from Officers.

RECOMMENDATION(S)

Subject to the prior signing of a s106 to ensure that the site is only developed as an affordable housing exception site, Grant planning permission subject to conditions.

Relationship to Corporate Plan:

Homes

- Facilitating the housing growth that Mid Devon needs, including affordable housing
- Planning and enhancing the built environment

Environment

- Protect the natural environment

Financial Implications: An appeal may require the appointment of planning, highway and air quality consultants to assist in the defence of the reasons for refusal as the statutory consultees have indicated they would not support refusal of the application. That being the case, Members must be able to clearly justify each and every reason for refusal in line with the development plan and all other material considerations.

Legal Implications: The report identifies the risks in proceeding with a decision based on the reasons given by the Committee on 14th June 2017, in terms of defending those reasons at appeal (if made). The Council will still need to prepare draft planning conditions for the appeal and complete a section 106 agreement. External legal and other expert representation may be required if the appeal proceeds to a public inquiry and this would increase the cost to the council of such action.

Risk Assessment: as above.

1.0 Introduction

1.1 At the Planning Committee held on 14th June 2017 the Planning Committee resolved that Members were minded to refuse the application and therefore wished to defer the decision to allow for a report to be received setting out the implications for the proposed reasons for refusal based on the following issues:

- Highway safety
- Air quality
- The sustainability of the site

2.0 The implications of refusing the application

2.1 Highway safety

2.2 The Highway Authority as statutory consultee has been consulted on this application and provided a bespoke response which was reported within the agenda report on 14th June.

2.3 During the discussion on the application Members expressed concern about permitting 6 new dwellings in a location where in excess of 200 lorries pass daily from the quarry and equally, residents from the site would have to walk along that same road with no pavement for the most part to reach the village hall and school. There was concern that occupiers from the properties would therefore be likely to drive children to the school, impacting on parking in the vicinity of the school, rather than choosing to walk.

2.4 Paragraph 32 of the NPPF states that decision takers should take account of whether 'safe and suitable access to the site can be achieved for all people' and therefore it is entirely correct that members consider highway safety in their decision making.

2.5 However, the same paragraph of the NPPF states that, 'Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.' [my emphasis]

2.6 Therefore, the balance which members need to consider is whether the impact of permitting 6 dwellings would have such a severe impact on highway safety that it justified a refusal.

2.7 Further comments have been received from the Highway Authority in response to the concerns expressed by members. With regards to the concerns about putting 6 new houses in a location where lorries are accelerating uphill, they advise that, *'The visibility proposed at the access point is adequate for the location and speed of traffic. Lorries are accelerating at this point but it is up hill and in my experience (I know a local resident) they are not actually travelling excessively fast. It is widely accepted by transport planners and highway engineers that because of their sheer size, the presence of metallic 'clanking' from moving body parts and labouring engines, lorries do tend to give the impression that they are travelling faster than they are.'*

With regards to the concerns about residents having to walk along the road to reach the school etc, the Highway Authority advise, *'This is clearly not ideal but it is also true for the existing residents of Burlescombe and many villages across Devon, and wider. The main road through the village varies in width but at most points there is adequate width for two vehicles and pedestrians*

to pass in relative safety particularly given the relatively low traffic volumes. Between 1st Jan 2012 and 31st Dec 2016 there was one 'slight' severity collision in the village. In short I do not believe I could provide sufficient evidence to convince an Inspector that the application does not have 'Safe and suitable access'. The advice from the Highway Authority is that the development is acceptable. The development is considered to be small scale and the impact of permitting the 6 dwellings is not severe such as to refuse the application. If members were to refuse the application, the Highway Authority would not be able to provide advice or support in relation to any appeal

2.8 However, if Members still feel that the development is unacceptable, notwithstanding the above paragraphs, Officers have drafted a reason for refusal based on the concerns raised by Members in relation to Highway safety as follows:

2.9 Reason for refusal 1:

The application site is located with access from the main road through the village of Burlescombe. In excess of 200 lorries a day use this same road to deliver materials from the quarry. The LPA are concerned that this volume of heavy traffic, together with the need for residents from the proposed site to walk along the road which lacks footways, to reach the facilities in the village results in an unsafe development with severe impacts in terms of highway safety, contrary to the NPPF

2.10 Air Quality

2.11 The Environmental Health team has been consulted on this application and provided a bespoke response which was reported within the agenda report on 14th June.

2.12 During the discussion on the application Members expressed concern about permitting 6 new dwellings in a location where in excess of 200 lorries pass daily from the quarry and although they had regard to the comments of the Environmental Health team in the report, they were concerned that there was no mention of 'particulates'

2.13 The Environmental Health team have now provided a further response as follows:

- 1. NOX monitoring is a good indication of general air quality and particulates would not be monitored unless the action level for NOX is over 40µg/m3. A survey of particulates generated by Westleigh Quarry was carried out in 2005 and the levels were 22 µg/m3 which is well below the action level of 40µg/m3. The report also concluded that the majority of particulate matter in this area was more likely to be caused by domestic heating systems than HGV's. Of further note would be that since this report clean vehicle technology has progressed and the vehicles now using the route should be less polluting. As a further point of reference Exeter Road, Crediton is now below the yearly action level for particulates but still has on average 4500 commercial traffic movements daily with at least double that of non-commercial traffic.*
- 2. For a row of houses to have any effect the height of the row would have to exceed the width of the road on both sides creating a canyon as in Exeter Road, Crediton. This most certainly would not be the case if these houses were approved.*

The NPPF Planning Practice Guidance advises that in considering planning applications LPA's should consider whether it is appropriate to expose people to existing sources of air pollutants. This could be by building new homes, workplaces or other development in places with poor air quality. Therefore, whilst this is a material planning consideration the advice from Environmental

Health is that the development is acceptable, and the impact of permitting the 6 dwellings is not severe such as to refuse the application. If members were to refuse the application, Environmental Health would not be able to provide advice or support in relation to any appeal. Members would need to provide evidence of there being a particular problem with air quality to substantiate a reason for refusal at appeal and officers are concerned that based on the information provided by the Environmental Health team, such evidence is unlikely to be available.

2.15 However, if Members still feel that the development is unacceptable, notwithstanding the above paragraphs, Officers have drafted a reason for refusal based on the concerns raised by Members in relation to air quality as follows:

2.16 Reason for refusal 2:

The provision of 6 new dwellings in a location where in excess of 200 HGV's a day pass the frontage of the site, accelerating to travel uphill, is considered undesirable in terms of air quality and the particulates generated by such traffic movements, contrary to the advice set out in the Planning Practice Guidance which seeks to prevent exposing people to existing sources of air pollution.

2.17 Sustainability

In respect of the determination of planning applications, the planning Acts (section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004) state that they should be determined in accordance with the development plan unless material indications indicate otherwise. The development plan is therefore the primary consideration and the NPPF acts as non-statutory guidance which should be taken as a material consideration in planning decisions.

Therefore the adopted MDLP is the development plan and it is this document that identifies that Burlescombe has a settlement limit and on this basis, the application site, as an exception site for affordable housing, accords with the development plan.

Para 6 of the NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development and Paragraph 14 of the NPPF states that *'At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking'* Therefore Members are right to give consideration to whether this development is sustainable or not and clearly Burlescombe is no longer seen as being a sustainable location for development as the submitted Local Plan Review document proposes the removal of the settlement limit. However the document, having been submitted and still with outstanding objections, carries limited weight. This has been confirmed by an Inspector in a recent appeal decision (dated 16th June 2017) who stated, *'My attention has also been drawn to the Mid Devon Local Plan Review 2013 – 2033 (eLP) which was submitted for examination in March 2017. As the examination into the eLP has yet to be completed the provisions of the eLP can be given only limited weight.'*

The Local Planning Authority accepts that it is unable to demonstrate five years worth of housing against its housing requirement as set out within the National Planning Policy Framework and as such paragraph 14 of the National Planning Policy Framework (the Framework) therefore applies. Under paragraph 14 it is therefore necessary to consider whether there are any adverse impacts of the proposed development which would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework and this is discussed further below.

It is acknowledged that there is a lack of facilities available to existing and proposed residents of Burlescombe to such a degree that those residents would be reliant on the private car for daily access to facilities and services. There is no regular bus service and it is proposed to remove the settlement limit of Burlescombe from the Local Plan Review.

The benefits of the scheme are that it provides 6 affordable houses for local people (as indicated by a Housing Needs Survey), in a location where suitable drainage and landscaping can be provided and it has a limited impact on the amenity of neighbouring residents and ecology.

Members therefore need to consider whether their concerns about the lack of facilities and services which are accessible without the means of a private car significantly and demonstrably outweigh the benefits of providing affordable housing in a village location where a specific affordable housing need has been identified through a housing needs survey.

Notwithstanding the above paragraphs, Officers have drafted a reason for refusal based on the concerns raised by Members in relation to the unsustainable nature of Burlescombe as a settlement

Reason for refusal 3:

The application site is outside the current settlement limit boundaries of the village of Burlescombe and is in the open countryside. Policy AL/DE/6 of the Allocations and Infrastructure Development Plan Document permits 100% affordable housing on sites which adjoin a settlement. However, the LPA are concerned that Burlescombe does not have the services, facilities or public transport associated with a sustainable location and residents of the proposed dwellings will be required to use a private car to access these. This is echoed in the Councils Local Plan Review 2013 -2033, whereby the settlement limit for Burlescombe is proposed for deletion resulting in it being defined as open countryside. The Local Plan Review 2013-2033 carries limited weight at present (as it has not been through examination) and the Local Planning Authority accepts that it is unable to demonstrate five years worth of housing against its housing requirement as set out within the National Planning Policy Framework and consequently its adopted local plan is considered to be out-of-date. The tilted balance contained within paragraph 14 of the National Planning Policy Framework (the Framework) therefore applies.

When tested against Paragraph 14 of the Framework the Local Planning Authority consider that the adverse impacts of the proposed development in terms of the unsustainable location for new housing resulting in its occupiers being heavily reliant on the private car would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework in relation to the provision of sustainable development.

2.0 Conclusion:

Members have indicated that they are minded to refuse the application following concerns relating to highway safety, air quality and the sustainability of the site. Members will note from the report above that neither the Highway Authority or the Environmental Health team would be able to provide professional support in the event of an appeal and your officers do not consider that there is sufficient policy support for a refusal on these grounds. However, given that the current local plan is considered to be out of date, members may consider that COR17 no longer applies and make their own assessment of the proposal against the sustainability emphasis of the NPPF. However, in doing so Members will need to be satisfied that the adverse impacts of the proposed development in terms of the unsustainable location for new housing would significantly and demonstrably outweigh the benefits (such as the provision of 6 units of affordable housing on an

exception site in a village where a housing needs survey has been undertaken which has highlighted a local need) when assessed against the policies of the Framework

Your Officers are of the opinion that refusal of this current planning application for the reasons given cannot be substantiated and the recommendation remains as one of approval.

Contact for any more information	Mrs Alison Fish, Area Team Leader 01884 234266
Background Papers	NPPF
File Reference	17/00353/FULL
Circulation of the Report	Cllrs Richard Chesterton Members of Planning Committee

Application No. 17/00353/FULL

Plans List No.

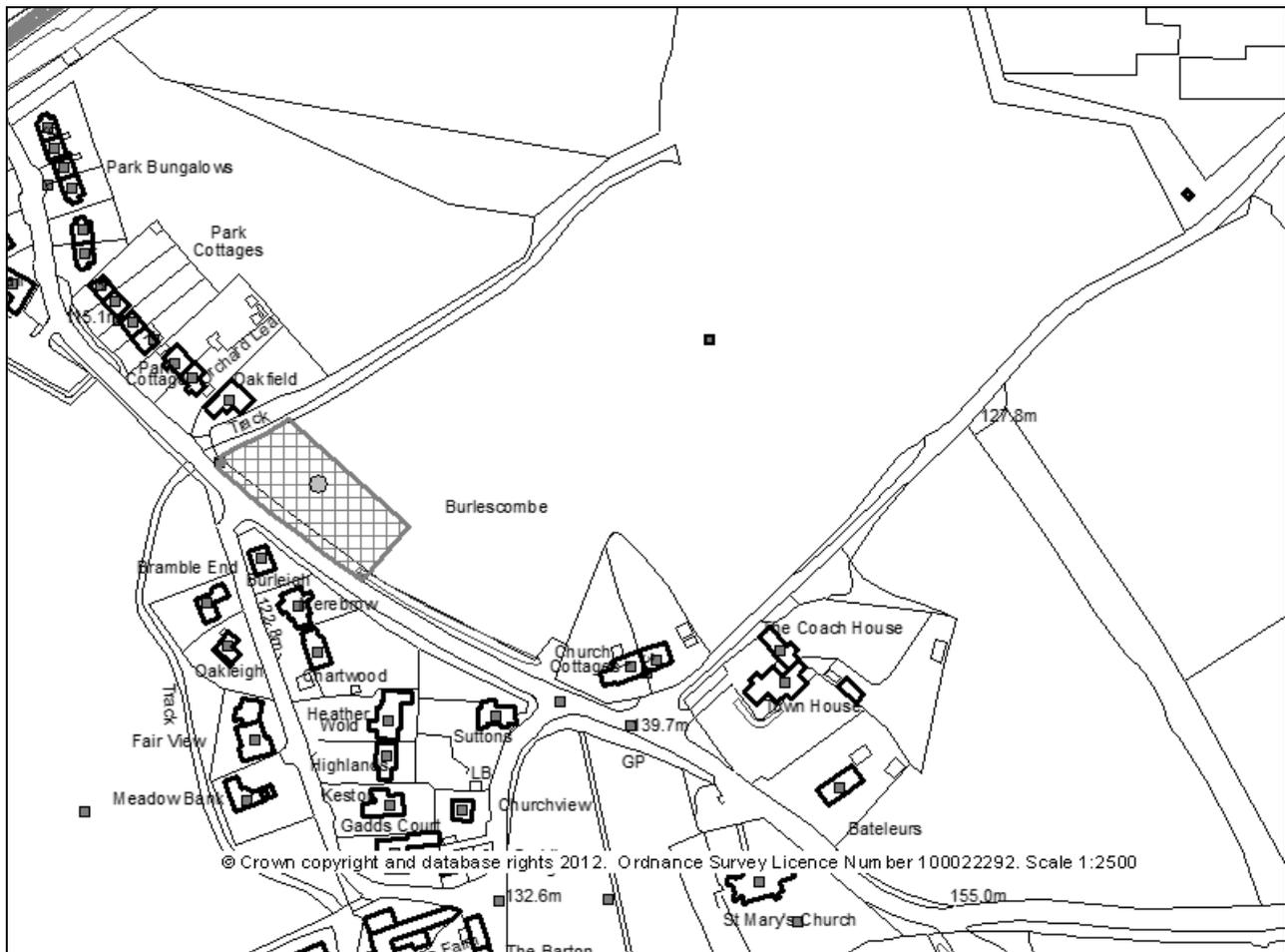
Grid Ref: 307580 : 116858

Applicant: Mr A Busby

Location: Land at NGR 307578
116857 (SE of
Oakfield)
Burlescombe Devon

Proposal: Erection of 6
affordable dwellings
and formation of
access

Date Valid: 3rd March 2017



Application No. 17/00353/FULL

RECOMMENDATION

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

Subject to a) the receipt of amended plans/information and b) prior of a s106 to ensure that the site is only developed as an affordable housing exception site, Grant planning permission subject to conditions.

PROPOSED DEVELOPMENT

This is a full application for the erection of 6 affordable dwellings consisting of 4 x 2 bed houses and 2 x 3 bed houses. The existing railway dissects Burlescombe and the application site is located to the south of the railway on land located between the church at the top of the hill and the village hall towards the bottom of the hill. It is on land which bounds the main road through the village and direct access to the parking area is proposed. The access is located centrally within the site with a terrace of 3 units proposed on either side. The application site comprises part of an agricultural field and is bordered to the north and east by the remainder of the field. To the west is the existing access into the field (to be retained) and the dwelling known as 'Oakfield'. The road and houses to the south and west are set down at a lower level than the application site, whilst the land to the east continues to rise. The proposed development includes a communal parking area, front and rear gardens for each unit and a pedestrian footpath along the site frontage.

APPLICANT'S SUPPORTING INFORMATION

Design and access statement
Ecological impact assessment
Geotechnical investigation and contamination
Wildlife trigger list
Devon rural housing partnership - consultation event summary
Drainage scheme plan
Housing needs information - extract from the housing waiting list and Housing Needs Survey

PLANNING HISTORY

97/00783/FULL - S.W.E.B. consultation for overhead line diversion - REFUSED
98/00825/FULL - Revised consultation in respect of the diversion of 11kV and 33kV overhead power lines - PERMIT

DEVELOPMENT PLAN POLICIES

Mid Devon Core Strategy (Local Plan 1)

COR1 - Sustainable Communities

COR2 - Local Distinctiveness

COR18 - Countryside

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

AL/DE/6 - Exceptions Policy

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

DM14 - Design of housing

DM15 - Dwelling sizes

CONSULTATIONS

BURLESCOMBE PARISH COUNCIL - 20th March 2017 OBJECT

Burlescombe Parish Council have taken into consideration the objections received and the points raised at the Planning Committee Meeting by both members of the Public and Councillors on Wednesday 15th March and wish to object to this application.

The concerns raised are as follows:

1. Health and Safety- The numerous lorries travelling up the road from the Quarry, accelerate up the hill at the point where the houses will be built and there is an increase in emissions. The Parish Council would like to request that this is independently measured.

The road is extremely busy with over 200 lorries passing each day and there has been no provision for a footpath. Any children having to walk to the primary school at the bottom of the hill or to the play area would be walking on this road.

With only 11 car parking spaces it is highly probable that there is insufficient parking available on site and consequently cars will be parked in the road. This again exacerbates the problems above. The Council would like to see more car parking space made available on site.

2. Drainage - The Council have serious concerns over the arrangements for the drainage. The Architect had discussed at the meeting the provisions for the drainage of the site but there has been no discussion for the remainder of the field and the surface run off. There is a considerable amount of water running down the field which does not appear to have been considered.

3. Environmental - In the millennium several trees were planted along the edge of the field (including a Devon Oak) which are to be removed. New planting is not replacing them and the Council would like the Tree Officer from MDDC to review the trees on this site.

Crested Newts are located in a pond on the opposite side of the road and this needs to be a consideration.

4. The village lacks any amenities. With only one bus a week coming through Burlescombe a vehicle is required to access the shops, Dr or College.

The Parish Council have suggested that putting double yellow lines on the road would prevent any parking off site and request that this is considered. In summary the Councillors do not object to having affordable housing in the area but are strongly opposed to the allocated site as being inappropriate.

DEVON COUNTY EDUCATION - 7th April 2017 - Regarding the above planning application, Devon County Council would need to request an education contribution to mitigate its impact.

The proposed 6 family-type dwellings will generate an additional 1.5 primary pupils and 0.9 secondary pupils.

There is currently capacity at the nearest primary for the number of pupils likely to be generated by the proposed development. Devon County Council will however seek a contribution towards additional education infrastructure at the local secondary school that serves the address of the proposed development. The contribution sought is £19,728 (based on the current DfE extension rate of £21,921 per pupil) which will be used to provide education facilities for those living in the development.

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

1.00 secondary pupil
£3.10 per day x 190 academic days x 5 years = £2,945

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

HISTORIC ENVIRONMENT SERVICE - 27th March 2017 NO OBJECTION WITH CONDITION

The proposed development lies in an area of archaeological potential.

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

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

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

HIGHWAY AUTHORITY - 4th April 2017 NO OBJECTION WITH AMENDMENTS AND CONDITIONS

Observations:

The applicant engaged with the Highway Authority prior to the submission of the application.

The applicant was advised that two car parking spaces per dwelling were required in order to reduce the potential for parking on the carriageway. Unfortunately the submitted plans only include eleven spaces. They do however appear capable of easy amendment by removal of the small planted area between spaces on the eastern line of spaces and then rejigging to include an additional space.

As shown on the submitted plan there is a bus shelter adjacent to the North West corner of the site. Unfortunately the stop is only served by one bus a week, on a Friday. Nevertheless, the indicated steps shown on drawing 2501 Rev P01 show pedestrians being discharged direct on to the carriageway below the bus stop whereas there would be benefit in tying in to the concrete apron in front of the bus stop.

I would therefore be grateful if you would raise these issues with the applicant and seek appropriately amended plans.

Recommendation:

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

ENVIRONMENTAL HEALTH - NO OBJECTION

We have several years of data monitoring Nitrogen Dioxide in Burlescombe (outside the school) and it is well below the action level.

It is also a very open area so any exhaust gases disperse quickly.

The action level is 40µg/m³ and Burlescombe, has been under 15µg/m³ for the last 5 years.

For that reason I would have no concerns regarding air quality at this site.

NATURAL ENGLAND - 20th March 2017

No comments.

ENVIRONMENTAL HEALTH - 13th March 2017

Contaminated Land - no objection to these proposals

Air Quality - no objection to these proposals

Environmental Permitting - N/A

Drainage - no objection to these proposals

Noise & other nuisances - recommend approval with conditions:

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

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

Housing Standards - No comment

Licensing - No Comments

Food Hygiene - Not applicable

Private Water Supplies - Not applicable

Health and Safety - no objection to this proposal enforced by HSE.

HIGHWAY AUTHORITY - 21st June 2017 - The visibility proposed at the access point is adequate for the location and speed of traffic. Lorries are accelerating at this point but it is up hill and in my experience (I know a local resident) they are not actually travelling excessively fast. It is widely accepted by transport planners and highway engineers that because of their sheer size, the presence of metallic 'clanking' from moving body parts and labouring engines, lorries do tend to give the impression that they are travelling faster than they are.

[residents walking on the road to reach the school etc.] is clearly not ideal but it is also true for the existing residents of Burlescombe and many villages across Devon, and wider. The main road through the village varies in width but at most points there is adequate width for two vehicles and pedestrians to pass in relative

safety particularly given the relatively low traffic volumes. Between 1st Jan 2012 and 31st Dec 2016 there was one 'slight' severity collision in the village. In short I do not believe I could provide sufficient evidence to convince an Inspector that the application does not have 'Safe and suitable access'.

LEAD LOCAL FLOOD AUTHORITY - 17th May 2017

Recommendation:

Devon County Council's Flood and Coastal Risk Management Team is not a statutory consultee for the above planning application because it is not classed as a major development under Part 1(2) of The Town and Country Planning (Development Management Procedure) (England) Order (2015). However, we have been approached by the Local Planning Authority to provide advice in respect of the surface water drainage aspects of the above planning application, which is outlined below.

Observations:

The applicant has not submitted sufficient information in relation to the surface water drainage aspects of the above planning application in order for it to be determined at this stage.

The strategy presented within the submitted within the Drainage Statement (Ref: 16.11.283, Rev, 01, dated May 2017) is acceptable and SWW have agreed the proposed discharge point. However given concerns raised by adjacent residents about changes in overland flow routes, it would recommended that the proposed 300 mm high edge protection to development as shown on Drawing No. 16.11.283-1002-P01 to prevent overland flows is reduced in length to still provided to prevent exceedance from entering the proposed new dwellings but allow exceedance flows to enter the green space. However flows should be prevented from entering the proposed attenuation facility if this option is explored.

14th June 2017 - The applicant has now submitted sufficient information in relation to the surface water drainage aspects of

the above planning application in order for it to be determined.

The strategy presented within the submitted within the Drainage Statement (Ref: 16.11.283, Rev, 01, dated May 2017) is acceptable and SWW have agreed the proposed discharge point. However given concerns raised by adjacent residents about changes in overland flow routes, it would recommended that the proposed 300 mm high edge protection to development as shown on Drawing No. 16.11.283-1002-P01 to prevent overland flows is reduced in length to still provided to prevent exceedance from entering the proposed new dwellings but allow exceedance flows to enter the green space. However flows should be prevented from entering the proposed attenuation facility if this option is explored.

REPRESENTATIONS

CONSULTATIONS

BURLESCOMBE PARISH COUNCIL - 20th March 2017 - object

Burlescombe Parish Council have taken into consideration the objections received and the points raised at the Planning Committee Meeting by both members of the Public and Councillors on Wednesday 15th March and wish to object to this application.

The concerns raised are as follows:

1. Health and Safety- The numerous lorries travelling up the road from the Quarry, accelerate up the hill at the point where the houses will be built and there is an increase in emissions. The Parish Council would like to request that this is independently measured. The road is extremely busy with over 200 lorries passing each day and there has been no provision for a footpath. Any children having to walk to the primary school at the bottom of the hill or to the play area would be walking on this road. With only 11 car parking spaces it is highly probable that there is insufficient parking available on site and consequently cars will be parked in the road. This again exacerbates the problems above. The Council would like to see more car parking space made available on site.

2. Drainage - The Council have serious concerns over the arrangements for the drainage. The Architect had discussed at the meeting the provisions for the drainage of the site but there has been no discussion for the remainder of the field and the surface run off. There is a considerable amount of water running down the field which does not appear to have been considered.

3. Environmental - In the millennium several trees were planted along the edge of the field (including a Devon Oak) which are to be removed. New planting is not replacing them and the Council would like the Tree Officer from MDDC to review the trees on this site.

Crested Newts are located in a pond on the opposite side of the road and this needs to be a consideration.

4. The village lacks any amenities. With only one bus a week coming through Burlescombe a vehicle is required to access the shops, Dr or College.

The Parish Council have suggested that putting double yellow lines on the road would prevent any parking off site and request that this is considered. In summary the Councillors do not object to having affordable housing in the area but are strongly opposed to the allocated site as being inappropriate

HISTORIC ENVIRONMENT SERVICE - 27th March 2017 - no objection with condition

The proposed development lies in an area of archaeological potential.

For this reason and in accordance with paragraph 141 of the National Planning Policy Framework (2012) I would advise that any consent your Authority may be minded to issue should carry the condition as worded below,

based on model Condition 55 as set out in Appendix A of Circular 11/95, whereby: 'No development shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Planning Authority.'

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

HIGHWAY AUTHORITY - 4th April 2017 no objection with amendments and condition

Observations:

The applicant engaged with the Highway Authority prior to the submission of the application. The applicant was advised that two car parking spaces per dwelling were required in order to reduce the potential for parking on the carriageway. Unfortunately the submitted plans only include eleven spaces. They do however appear capable of easy amendment by removal of the small planted area between spaces on the eastern line of spaces and then rejigging to include an additional space.

As shown on the submitted plan there is a bus shelter adjacent to the North West corner of the site.

Unfortunately the stop is only served by one bus a week, on a Friday. Nevertheless, the indicated steps shown on drawing 2501 Rev P01 show pedestrians being discharged direct on to the carriageway below the bus stop whereas there would be benefit in tying in to the concrete apron in front of the bus stop.

I would therefore be grateful if you would raise these issues with the applicant and seek appropriately amended plans.

Recommendation:

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

(3 conditions listed)

NATURAL ENGLAND - 20th March 2017

No comments

ENVIRONMENTAL HEALTH - We have several years of data monitoring Nitrogen Dioxide in Burlescombe (outside the school) and it is well below the action level.

It is also a very open area so any exhaust gases disperse quickly.

The action level is 40 $\mu\text{g}/\text{m}^3$ and Burlescombe, has been under 15 $\mu\text{g}/\text{m}^3$ for the last 5 years.

For that reason I would have no concerns regarding air quality at this site.

ENVIRONMENTAL HEALTH - 13th March 2017

Contaminated Land - no objection to these proposals

Air Quality - no objection to these proposals

Environmental Permitting - N/A

Drainage - no objection to these proposals

Noise & other nuisances - recommend approval with conditions:

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

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

Housing Standards - No comment

Licensing - No Comments

Food Hygiene - Not applicable

Private Water Supplies - Not applicable

Health and Safety - no objection to this proposal enforced by HSE.

REPRESENTATIONS

1 letter of support has been received raising the following issues:

- a) Traffic speeds are limited to 30mph
- b) No lorries pass through at school run time and hardly at all at weekends and through the night
- c) Pedestrians are capable of walking on the verge or edge of road as they do now
- d) School would benefit from extra families
- e) Extra families may attract other amenities as they will be more viable
- f) Safeguards can be put in place for wildlife and trees and good planting can screen and protect from pollution
- g) Adequate drainage could be put in place
- h) Appears to be ample parking
- i) There is a great need for affordable housing in the village

12 letters of objection have been received raising the following issues:

- a) access is directly onto hill used by lorries from quarry at a point where they are increasing speed and power to climb the hill out of the village. Over 200 lorries a day exit the village by this road
- b) No footpath so pedestrians will have to walk on road
- c) Lack of facilities in village - will promote inequality and further disadvantage people in need of housing
- d) Car is the only viable option of getting to nearest towns as bus service is only once a week. Lack of access to a car can mean health services, child care and social activities are difficult to access and a barrier to getting a job
- E) Loss of trees to make way for development/access
- f) increased pollution levels from traffic using the road outside the site
- g) additional demands on drainage system
- H) Open space being swallowed up
- i) No necessity to build in Burlescombe with large scale developments proposed at Cullompton and Tiverton, where occupants will also have access to the associated infrastructure
- j) There are a number of springs in the application site and remaining field and there are concerns about how the development may affect them and the impact on existing properties including flooding and subsidence
- k) Steep access out on to the main road through village and lack of parking provision on site forcing

residents and their visitors to park on main road

l) Field is known to have greater crested newts etc.

m) MDDC should consider using other land such as the Redlands site to provide affordable housing on instead

n) Overlooking of garden to 'Merebrow'

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The main issues in the determination of this application are:

- 1. Policy**
- 2. Design**
- 3. Highways**
- 4. Air quality**
- 5. Ecology and trees**
- 6. Impact on residential amenity**
- 7. Drainage**
- 8. Archaeology**

1. Policy

The site is located outside but immediately adjacent to the existing settlement limit of Burlescombe. COR1 seeks to meet the housing needs of all sectors of the community including the provision of affordable housing. COR18 of the Core Strategy seeks to strictly control development outside settlement limits but (subject to other criteria) permits affordable housing to meet a local need. Policy AL/DE/6 (exceptions policy) of the AIDPD states:

The development of a site for 100% affordable housing to meet the needs of the local community will be permitted where:

- a) There is a proven need for affordable housing from households who have a strong local connection with the parish or an adjoining parish;
- b) The site adjoins a settlement in a location which takes account of visual and other impacts or is specifically allocated for affordable housing to meet local needs;
- c) The type of affordable housing and the scale of provision is limited to meeting the proven local need;
- d) A planning obligation is enforced which retains all the dwellings as affordable housing in perpetuity and gives priority to occupation by those with a strong local connection with the parish or adjoining parishes.

The applicant has provided information which demonstrates that a Housing Needs Survey was undertaken in 2013, the results of which are considered to remain valid for 5 years. In addition, information has been provided from the Housing Waiting list held by Devon Home Choice/MDDC. The information provided shows that there is an existing housing need within the village. Therefore the proposal complies with part a) of the policy.

The site is not allocated for affordable housing but it does immediately adjoin the settlement of Burlescombe, in a location where the existing built form of the village is linear in nature. Subject to consideration of other issues and policies below, the proposal complies with part b) of the policy.

The applicant is able to demonstrate that the mix of properties proposed is appropriate to address the need identified above and therefore part c) of the policy is complied with.

The application has been made by Mid Devon District Council and the proposal is for 100% affordable housing. It would be usual to have a s106 agreement whereby the applicant signs a legal agreement with the Council to ensure that all dwellings are retained in perpetuity and giving priority to occupation by those with a strong local connection with the parish or adjoining parishes. However, a Council cannot covenant with itself but in this instance, the land is not owned by MDDC and therefore it will be necessary to have a s106 agreement signed by all current landowners. The officer recommendation of approval is therefore subject to the prior signing of a s106 agreement to secure the affordable housing (but no other financial

contributions will be applied as this is an affordable housing scheme). On this basis part d) of the policy is complied with.

Concern has been expressed about the sustainability of a development in this location particularly given the lack of facilities within the village (a school, village hall and pub premises albeit that the pub has been closed for some time now). There is also only one bus service per week and therefore the heavy reliance on the private car. Policies within the NPPF and LDF do seek to promote sustainable development and as a consequence the Local Plan Review submission document sets out the authorities intention to remove the settlement limit for Burlescombe. However, the submission document currently carries little weight as it has not yet gone through examination by the Inspector. Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The current adopted development plan identifies Burlescombe as a COR17 settlement within which (and consequently adjacent to it for an exception site) minor residential developments are considered acceptable. On this basis, whilst the concerns about sustainability are noted, it is not considered that this would be an appropriate grounds for refusal. As such the proposal complies with current policies COR1 and DM1

Other relevant policies and issues are addressed below

2. Design

COR2 and DM2 seek high quality design in new development with DM14 particularly seeking adequate levels of daylight, sunlight and amenity space. The requirements for minimum dwelling sizes in policy DM15 have been superseded by the nationally described space standards.

The proposed development consists of 2 terraces following the linear nature of development in this part of Burlescombe, set up and back from the road. The properties are simple in form constructed of materials which are appropriate to the area.

Concern has been expressed that the layout and design of the site does not provide for adequate on-site parking. The plans have been amended to reflect the comments of the Highway Authority to show 12 parking spaces for 6 properties.

The agent has confirmed that each of the units has been designed to comply with the nationally set space standards so on this basis, the proposal is considered to comply with policies COR2, DM2 and DM14.

3. Highways

Concerns have been expressed regarding the busy nature of the road, lack of footpaths from the site and whether this is an appropriate location for family homes given that approximately 200 lorries a day pass the site fully laden from the quarry. The Highway Authority have been consulted on the application and have not raised any objections in this respect or in terms of the safety of the proposed access onto the road. Whilst it is correct that anyone occupying the properties will need to walk along the verge and on the side of the road to access facilities such as the school, this is already the case for a number of residents in the village and it is not considered that the provision of a footpath from the site into the village is justifiable for a development of this scale.

The Highway Authority has however recommended some changes to the layout of the parking area to increase the number of available parking spaces and have recommended that the proposed pedestrian access exits onto the existing concrete apron by the bus stop which would be a sensible approach. Amended plans have been received which indicate 12 parking spaces but no alteration to where the pedestrian footpath exits. The applicant has been requested to look at this again and an update will be provided at committee.

Double yellow lines have been suggested to prevent residents from parking on the main road. With the provision of 12 parking spaces for 6 properties, it is not envisaged that this will be an issue but could be addressed by DCC at a later date through a Traffic Regulation Order if a problem arose.

4. Air quality

Concern has been expressed from residents about the impact on the occupiers of the proposed properties from the exhaust fumes emitted by the lorries coming from the quarry and accelerating on the hill outside the site. Environmental Health has been asked to specifically comment on these concerns and have advised that they have several years of data monitoring Nitrogen Dioxide in Burlescombe (outside the school). They advise that the action level is 40 $\mu\text{g}/\text{m}^3$ and that Burlescombe has been under 15 $\mu\text{g}/\text{m}^3$ for the last 5 years. They also advise that it in terms of the application site, is a very open area so any exhaust gases disperse quickly. As a result, there are no objections to the proposal on air quality grounds.

5. Ecology and trees

The site is currently an agricultural field put to grass. Along the frontage of the site, bounding the road is a line of young trees planted to celebrate the millennium. The plans indicate that one of the trees (a Lucombe Oak) will need to be removed to provide access to the site and that other trees and shrubs will be planted along the frontage and within the site. The trees are less than 20 years old and whilst it is regrettable that any trees need to be removed, it is not considered that any of the trees within the site frontage warrant a TPO or that their loss would justify a refusal given that they are relatively young specimens. The Tree Officer has been consulted on the proposal and concurs with this view.

The application is accompanied by an Ecological Impact Assessment which sets out recommendations for native planting along the site frontage and the submitted scheme concurs with the recommendations. The Ecological assessment also sets out the impacts on any protected species. The impact on bats, nesting birds, badgers, hazel dormouse, reptiles and greater crested newts have been considered and found that there is unlikely to be any protected species either on site or affected by the development. However, residents and the Parish Council have raised the presence of great crested newts on an adjoining site and therefore the applicants ecologist has provided the following response:

'The site is located within a great crested newt (GCN) consultation zone and there is a record of a great crested newt breeding pond approximate 500 m north-east of the site. There is also a record of an EPSL for the damage and destruction of a GCN resting place approximately 1 km north-east of the site (refer to 3.1.2). There are two ponds (not including the identified breeding pond) approximately 400 m north-east of the site. There is no direct habitat connectivity from the site to the ponds. There are roads/residential areas and a train line between the site and ponds which may act as barriers to newt dispersal.

There are no ponds on the site. There are no mammal burrows, rough vegetation, dense scrub and/or rubble piles on the site that provide favourable GCN terrestrial habitat. It is therefore considered unlikely that GCN are present on the site.'

The site consisted of cattle poached improved grassland which is of negligible value to GCN. The south-west of the site is bounded by a strip of poor semi-improved grassland, semi-mature trees and patch of scrub adjacent to a road. This may provide potential habitat for GCN to travel through. However, given the limited extent and absence of dense scrub or other cover, such as burrows or dense scrub it is unlikely to provide favourable GCN resting habitat.

If GCN are present at Chartwood they would have to cross the road to access the site. The proposals include the loss of approximately 10-15 m of the bank (largely grass). If GCN currently cross the existing road they will be able to cross the new entrance to the proposed site. The proposed development includes reinforcing the existing south-west boundary with new woody vegetation. It is also proposed to plant a new hedgerow/boundary around the south-east and north-east boundaries of the site as well as areas of shrub plantings around the site. The provision of residential gardens and the new areas of planting within the development are likely to enhance the site value for any GCN in the area by providing a mosaic of habitats (as opposed to cattle poached grassland and a sparsely vegetated bank). You could provide additional measures such as permeable fence boundaries within the site, e.g., 125 mm² holes at the bottom of garden fences allow the potential dispersal of GCN and other wildlife over the site.

In summary, it is considered unlikely that the proposed development would have a significant impact on GCN (if they are present at Chartwood).

In light of the above, it is not considered that the proposal will have any adverse impact on ecology but members should note that if any protected species are found whilst contractors are on site, they are bound by the Wildlife and Countryside Act 1981 which makes it an offence to intentionally (or recklessly) kill or

injure protected species or interfere with places used for their shelter and protection.

6. Impact on residential amenity

Concern has been expressed the proposed dwellings may result in overlooking of an existing bungalow opposite known as 'Merebrow'. This is one of 3 properties (bungalows) located to the south west of the site, on the opposite side of the road and at a lower level than the application site. There is approximately 20m between the front elevation of the dwellings and the rear garden boundary of 'Merebrow', with the proposed dwellings being at a higher level. Whilst it is possible to see the rear elevation of all 3 properties whilst standing on the site, and taking into account that the proposed dwellings will be two storey, the distance between the dwellings and orientation are such that the extent of overlooking will not be so great as to warrant refusal.

7. Drainage

Concern has been expressed that the application site is currently a sloping agricultural field with a number of springs in it. There are existing properties which sit at a lower level than the site and the occupiers are concerned that any development of the site should not lead to increased levels of run-off. A drainage scheme has been provided with the application but DCC as Lead Local Flood Authority (LLFA) has requested further information from the applicants in order to fully assess the proposal. At the time of writing this report, the full details were still awaited but an update on this will be provided to members at committee. However members can be assured that in order to gain the approval of DCC LLFA the applicants will need to demonstrate that the development will not result in a worsening of the situation.

8. Archaeology

DCC Archaeology have advised that the proposed development lies in an area of archaeological potential and therefore any groundworks for the construction of the proposed development have the potential to expose and destroy archaeological and artefactual deposits associated with these periods.

For this reason a condition is attached requiring a programme of archaeological works, commencing with the excavation of a series of evaluative trenches to determine the presence and significance of any heritage assets with archaeological interest that will be affected by the development. The results of this work will then determine the requirement and scope for further work

CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice.
3. No development shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved by the Local Planning Authority. The development shall be carried out at all times in strict accordance with the approved scheme, or such other details as may be subsequently agreed in writing by the Local Planning Authority.
4. In accordance with details that shall previously have been submitted to, and approved in writing by, the Local Planning Authority, provision shall be made within the site for the disposal of surface water so that none drains on to any County Highway.

5. No part of the development hereby approved shall be brought into its intended use until the access, parking facilities, visibility splays, turning area, parking space and access drainage have been provided in accordance with the approved drawings..
6. All development shall be carried out in accordance with the recommendations and mitigation measures set out in section 4 of the Ecological Impact Assessment carried out by Richard Green Ecology and received by the Local Planning Authority on 6th March 2017
7. All planting, seeding, turfing or earthworks comprised in the approved details of landscaping as shown on the submitted plans, shall be carried out within 9 months of the substantial completion of the development, and any trees or plants which within a period of five years from the implementation of the scheme (or phase thereof) , die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species. Once provided, the landscaping scheme shall be so retained
8. The approved drainage scheme shown on drawing number *** shall be carried out in full prior to the first occupation of the dwellings and thereafter be so retained

REASONS FOR CONDITIONS

1. In accordance with the provisions of Section 51 of the Planning and Compulsory Purchase Act 2004.
2. For the avoidance of doubt and in the interests of proper planning.
3. To ensure, in accordance with Paragraph 141 of the National Planning Policy Framework (2012) and the supporting text in Paragraph 5.3 of the Mid Devon Local Plan Part 3: (Development Management Policies) Policy DM27, that an appropriate record is made of archaeological evidence that may be affected by the development.
4. In the interest of public safety and to prevent damage to the highway.
5. To ensure that adequate facilities are available for the traffic attracted to the site.
6. In the interests of preserving protected species and their habitats and to enhance the ecological value of the site in accordance with Policy DM2 of Local Plan Part 3 (Development Management Policies)
7. To ensure that the development makes a positive contribution to the character and amenity of the area in accordance Policy DM2 of the Local Plan Part 3: (Development Management Policies).
8. To ensure that adequate measures are in place to manage surface water and foul drainage from the site.

REASON FOR APPROVAL OF PERMISSION/GRANT OF CONSENT

A need for affordable housing in Burlescombe has been demonstrated and the proposed dwellings in terms of size, mix and design are considered appropriate for this location. The design and layout of the dwellings are considered acceptable and the comments of the Highway Authority have now been successfully resolved. No concerns regarding air quality have been raised by Environmental Health and it is considered that the removal of young trees, whilst regrettable, does not justify a refusal. No adverse impact on residential amenity is considered to result which justifies a refusal and subject to resolution of the outstanding issues relating to ecology and drainage the proposal is considered to comply with Policies COR1, COR2, and COR18 of the Mid Devon Core Strategy (Local Plan Part 1), Policies AL/DE/6 and AL/IN/3 of the Allocations and Infrastructure Development Plan Document (Local Plan Part 2) and Policies DM1, DM2, DM8, DM14 and DM15 of the Local Plan Part 3 (Development Management Policies).

Mrs Jenny Clifford
Head of Planning and Regeneration

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