

# 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, 6 September 2017 at 2.15 pm

The next ordinary meeting of the Committee will take place on Wednesday, 4 October 2017 at 2.15 pm in the Phoenix Chamber, Phoenix House, Tiverton

#### **STEPHEN WALFORD**

Chief Executive  
29 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 - 24)*

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 25 - 98)*

To consider the planning applications contained in the list.

8      **MAJOR APPLICATIONS WITH NO DECISION** *(Pages 99 - 102)*

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

9      **APPEAL DECISIONS** *(Pages 103 - 104)*

To receive for information a list of recent appeal decisions.

10     **APPLICATION 17/00567/FULL - VARIATION OF CONDITION 1 OF APPEAL DECISIONS A & B: APP/Y1138/C/10/2139560 AND 2139561 AND APPEAL DECISION C: APP/Y1138/A/10/2133187 GRANTING TEMPORARY PLANNING PERMISSION TO ALLOW PERMANENT RESIDENCE OF THE SITE AT LAND AND BUILDINGS AT NGR 286077 123613 (STUBNAIL POST), OAKFORD** *(Pages 105 - 116)*

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

11     **APPLICATION FOR A TREE PRESERVATION ORDER LAND AT NGR 306770/113041, CLAY LANE , UFFCULME** *(Pages 117 - 120)*

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

12     **APPLICATION 16/01830/FULL - SITING OF 1 MOBILE HOME, 2 MOTOR HOMES AND A COMPOST WC AT OAK MEADOW, SILVERTON** *(Pages 121 - 136)*

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

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

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

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

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

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

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

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Public Wi-Fi is available in all meeting rooms.

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## MID DEVON DISTRICT COUNCIL

**MINUTES** of a **MEETING** of the **PLANNING COMMITTEE** held on 9 August 2017 at 2.15 pm

### **Present**

#### **Councillors**

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

### **Apologies**

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

R L Stanley

### **Also Present**

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

Mrs M E Squires

### **Present**

#### **Officers:**

Simon Trafford (Area Team Leader), Lucy  
Hodgson (Area Team Leader), Alison Fish  
(Area Team Leader), Kathryn Tebbey (Legal  
Services Manager and Monitoring Officer)  
and Sally Gabriel (Member Services  
Manager)

## 37 **APOLOGIES AND SUBSTITUTE MEMBERS**

Apologies were received from Cllr R L Stanley who was substituted by Cllr C J Eginton.

## 38 **PUBLIC QUESTION TIME**

The Chairman read the following questions on behalf of residents of Burlescombe with regard to Item 10 on the agenda:

Mrs Rhiannon Holman ( resident of Burlescombe and member of Burlescombe Enviromental Liaison):

### Questions

Since the previous Planning Committee meeting on 14 June 2017, there have been three further developments which need to be drawn to the attention of Members:

- Devon County Council has received a planning application to extract an additional 600,000 tonnes from Westleigh/Burlescombe Quarry (this would hugely increase lorry movements which are already over 200 movements per day).

- The Chair of Governors for Burlescombe Primary School has confirmed that a Governor has been appointed to lead on investigating the situation relating to the impact on school children from Diesel Emissions. The Governor will be liaising with interested parties including the Parish Council on the matter.
- The Government has defined new policies and strategies for addressing the impact of Diesel Emissions – especially within our towns and villages.

Bearing the above in mind, will any of these new developments be taken into account in making planning decisions?

In view of the national movement on reducing/eliminating diesel pollutants and the Councils responsibility for its residents, why would you choose to put 6 new houses in a place where they are already 200 diesel lorry movements per day? (and whilst the lorries may be “low emission” that is not the issue – it is the type of emission that diesels give out, as is widely reported in terms of peoples health and wellbeing).

There was a significant incident this morning with a quarry lorry that shed part of its load as he climbed out through the village. The lorry deposited a large quantity of stone on the road just adjacent to the proposed Affordable Homes site (further stone had already been deposited in other areas of the village).

However given it is at this point (proposed Affordable Homes site) that the lorries need to change gear and climb, a very large amount of stone was deposited.

I attach some photographs and further photos were taken by a Parish Councillor too.

Given the quarry lorry stone spillage ( as shown in the attached photographs) is this a safe location to site Affordable Homes?

### **Mr Morcom**

Given that there are no amenities (Public Transport, Shops, etc) in Burlescombe and the affordable houses are within “open countryside”, how can this be classified as a sustainable location if every person would need to travel in their own vehicle beyond Burlescombe to access services and facilities to sustain living within those properties?

### **Mr Duzy**

As you will be aware since the planning application for affordable dwellings has been made, Westleigh Quarry has submitted an application to extract an additional 600,000 tonnes of material from the quarry. This will necessitate additional lorry movements through the village with the associated implications for Highway safety and air quality. May I ask the committee if they can give consideration to the safety and sustainability of the site given the likely impact of this and any potential future applications to extract additional material from the quarry with regard to highway safety and air quality?

Mrs Downing again referring to item 10 on the agenda, (Burlescombe) stated that: when I moved to Burlescombe 14 years ago lorry traffic from the quarry was not so heavy, whether output has increased and by how much is not as important as the fact that it has increased. Where this site is during the week anyone living in affordable housing will hear and feel the noise and vibrations and smell the asphalt and not find it extremely easy to enter and leave the parking areas and if visitors arrive with extra transport where will they park? A display has been offered showing an alternative lorry route but funding is still not available. At the minerals plan last year the inspector paid particular attention to the fact that Burlescombe is very unique. It has two quarries in its parish and the possibility of Penslade, which is partly in our parish. The Government say affordable housing is needed where appropriate sites are provided. The Parish Council and local residents objected to this site, only one person supported it. Is this really an appropriate site as far as traffic, highways, sustainability and air quality are concerned? I would also note that in the Mid Devon Local Plan, which is to be discussed with the Inspector soon, this application is outside of permitted building area in the future.

### 39 MINUTES OF THE PREVIOUS MEETING

Subject to the addition of Kathryn Tebbey (Legal Services Manager and Monitoring Officer) to the attendance list for the meeting, the minutes of the meeting held on 12 July 2017 were approved as a correct record and signed by the Chairman.

### 40 CHAIRMAN'S ANNOUNCEMENTS (00-08-45)

The Chairman had the following announcements to make:

- She welcomed Ruthie Pollington (the new Administrative & Performance Team Leader) to the meeting.
- She also welcomed David Williamson (Independent Person) to the meeting, his role would be to observe the meeting and make any recommendations for improvement to the Monitoring Officer.
- She informed the meeting that the recruitment process in the Planning Department was now complete; some of the new staff would be in place by the end of the month.

### 41 ENFORCEMENT LIST (00-11-54)

Consideration was given to the cases in the Enforcement List \*.

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

Arising thereon:

- a) No. 1 in the Enforcement List (***Enforcement Case ENF/16/00243/UDRU – Erection of two storey building in rear garden, 6 Forestry Houses, Chenson, Chulmleigh***).

The Area Team Leader outlined the contents of the report by way of presentation highlighting the property and the unauthorised development within the rear garden.

He explained that the unauthorised development was hidden from the A377 but could be viewed from other locations nearby.

The Ward Member stated that he had been in discussions with the land owners who had stated that they had paid an external organisation to submit a planning application and were unaware that this had not taken place.

It was therefore

**RESOLVED** that in the event that no fully validated planning application had been submitted regarding this issue within 3 months of this meeting that the Legal Services Manager be given delegated authority to 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.

(Proposed Cllr C J Eginton and seconded by Cllr P J Heal)

Note: Cllr C J Eginton declared a personal interest in the matter as the landowners were known to him; he made a further declaration in accordance with the protocol of Good Practice for Councillors dealing in Planning Matters as he had received correspondence regarding the issue.

#### 42 **DEFERRALS FROM THE PLANS LIST (00-20-20)**

The Chairman informed the meeting that Item 1 on the plans List (10 Mayfair, Tiverton) had been deferred to allow for additional information to be sought.

#### 43 **THE PLANS LIST (00-20-44)**

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

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

(a) Applications dealt with without debate.

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

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

(i) No 2 on the Plans List **(17/00948/FULL – Erection of an agricultural livestock building – land and buildings at NGR 276310 106188 (Middle Weeke Farm) Morchard Bishop)** be approved subject to conditions as recommended by the Head of Planning and Regeneration.

(Proposed by the Chairman)

(ii) No 3 on the Plans List **(17/01020/FULL – temporary change of use for 1 year from A1 use (Retail) and D2 (Assembly and Leisure) use – 7 Market Walk, Bampton Street, Tiverton)** be approved subject to conditions as recommended by



the Head of Planning and Regeneration amended as follows: Condition 1: The temporary use hereby approved shall cease on the 9<sup>th</sup> August 2018. Reason: In the interest of protecting the viability and vitality of the town centre in accordance with policy DM16 Local Plan Part 3 (Development Management Policies).

(Proposed by the Chairman)

(iii) No 4 on the Plans List **17/01024/FULL – temporary change of use for 1 year from A1 use (Retail) and D2 (Assembly and Leisure) use – 21-22 Market Walk, Bampton Street, Tiverton** be approved subject to conditions as recommended by the Head of Planning and Regeneration amended as follows: Condition 1: The temporary use hereby approved shall cease on the 9<sup>th</sup> August 2018. Reason: In the interest of protecting the viability and vitality of the town centre in accordance with policy DM16 Local Plan Part 3 (Development Management Policies).

(Proposed by the Chairman)

(b) No 1 on the Plans List **(17/00910/FULL – Erection of 5 dwellings and alterations to existing bungalow and erection of garage – 10 Mayfair, Tiverton)**

This item had been deferred as explained in Minute 42.

#### 44 **MAJOR APPLICATIONS WITH NO DECISION (00-26-55)**

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

It was **AGREED** that:

Application 17/01170/MOUT – Phase 1 North West Cullompton Urban Extension be brought before the committee for determination and that a site visit take place.

Application 17/01090/MOUT – Brookdale, Threshers, Hollacombe be brought before the committee for determination and that a site visit take place.

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

#### 45 **APPLICATION 17/00501/FULL - ERECTION OF AN AGRICULTURAL STORAGE BUILDING - LAND AND BUILDING AT CROSS PARKS FARM, NOMANSLAND (00-31-58)**

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

The Area Team Leader outlined the contents of the report by way of presentation highlighting the location of the application site, a plan of the proposed agricultural building, the proposed block plan, floor plans and elevations. Members viewed an aerial photograph which showed the existing buildings, the location of the proposed building and the closest residential property to the site. Photographs were also shown from various aspects of the site. She stated that there had been some

objection to the application and that the amended conditions sought to mitigate the concerns of local residents.

Consideration was given to the views of local residents, the Parish Council and the Ward Member:

- The impact of further development on the site in conjunction with activities at neighbouring farms on the health of local residents
- Over development of the site by way of land to fertiliser/manure disposal ration
- The monitoring of conditions
- The other activities of the operator
- Noise and odour issues
- Pending investigations with regard to Cleave Farm
- Residents quality of life
- The use and need for the proposed building and the wider farming context taking into consideration activities at Cleave Farm
- A possible increase in traffic movement from Cross Parks to Cleave
- The size and massing adjacent to local properties

The Area Planning Officer reminded Members at this point that there was a need to consider the application before them today.

Discussion took place regarding:

- The main aim of the proposed building
- Whether there was any cumulative impact on local residents
- The updated conditions that sought to mitigate the concerns of local residents
- Whether the proposed building would serve Cleave Farm as well
- Ongoing Environmental Health issues
- Whether any additional conditions would be reasonable
- Whether an additional building on top of those already in place was proportionate to the size of the holding
- Policies COR18 and DM22

**RESOLVED** that planning permission be granted subject to conditions and an informative note as recommended by the Head of Planning and Regeneration, with amendments to Conditions 3 and 4:

3. Prior to the first use of the building hereby approved, the visibility splays shown on Drawing 5.3 Revised Visibility Splay to Entrance, shall be provided with no obstruction greater than 600mm above the road surface, the visibility splays shall be retained and maintained as such thereafter.

Condition 4 amended to read as follows: The building hereby approved shall only be used for agricultural storage purposes and the housing of livestock (subject to condition 5) and no part of the building shall 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

Reason:

In order to safeguard the residential amenity of the occupants of the neighbouring properties in accordance with policy DM22.

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

Notes:-

- (i) Cllr Mrs F J Colthorpe declared a personal interest as she knew the applicant and other people in the surrounding area;
- (ii) Cllrs R J Dolley and B A Moore made declarations in accordance with Protocol of Good Practice for Councillors in deal with Planning matters as they had been in contact with some of the objectors
- (iii) Mrs Faulkener spoke in objection to the application;
- (iv) Cllr Miss Coffin spoke on behalf of Templeton Parish Council;
- (v) Cllr B A Moore spoke as Ward Member;
- (vi) Cllrs R J Dolley and B A Moore requested that their vote against the decision be recorded;
- (vii) Cllr R F Radford requested that his abstention from voting be recorded;
- (viii) The following late information was reported: 9.8.2017 - Revised plans have been received to include the required visibility splay. Condition 3 is to be amended accordingly, to the following:

3. Prior to the first use of the building hereby approved, the visibility splays shown on Drawing 5.3 Revised Visibility Splay to Entrance, shall be provided with no obstruction greater than 600mm above the road surface, the visibility splays shall be retained and maintained as such thereafter.

Condition 4 amended to read as follows: The building hereby approved shall only be used for agricultural storage purposes and the housing of livestock (subject to condition 5) and no part of the building shall 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

Reason:

In order to safeguard the residential amenity of the occupants of the neighbouring properties in accordance with policy DM22.

- (ix) Cllr P J Heal left the meeting following discussion on this item;
- (x) \*Report previously circulated copy attached to minutes.

46 **17/00353/FULL - ERECTION OF 6 AFFORDABLE DWELLINGS - LAND AT NGR 307578 116857 (SE OF OAKFIELD) BURLESCOMBE (1-09-37)**

The Committee had before it an \* implications report of the Head of Planning and Regeneration regarding the above application which had been deferred from a previous meeting as Members had been minded to refuse the application.

The Area Team Leader outlined the contents of the report highlighting by way of presentation the location of the site and the proposal for 6 affordable dwellings, the central access, proposed parking, design and elevation plans as discussed at a previous meeting. She also explained the proposed reasons for refusal as outlined in the report.

Referring to the questions posed in public question time, the officer supplied the following answers:

- Referring to the recent planning application to extract an additional 600,000 tonnes from the quarry, she had looked at the application; the number of movements would remain the same as the removal would just be for another 9 months at the current level with the same level of output, there would be no additional movements from the quarry.
- The fact that a Governor of the school had been appointed to lead on investigating the situation relating to the impact on school children from diesel emissions was noted.
- Members had been given clear advice within the report from Environmental Health on the air quality issues.
- New Government policy on diesel emissions on town and villages, the Environmental Health Department had been unable to confirm any specific policy.
- With regard to the stone spillage, this was a safe site for affordable housing; the site was set up above the level of the road.
- With regard to a sustainable location, this had been explained within the report.

Consideration was given to:

- The views of the local Ward Members with regard to number of lorries continually climbing the hill out of Burlescombe and the lack of facilities in the village.
- The housing needs survey for the village and the need for affordable housing
- The fact that the Highways Authority had no objection to the proposal subject to conditions
- School places available at the village school
- The suitability of the location for development

**RESOLVED** that having considered the implications report and having further considered issues of sustainability regarding exception sites in the open countryside, planning permission be granted subject to the receipt of amended plans/information and prior to the signing of a S106 agreement to ensure that the site was only developed as an affordable housing exception site and with conditions as recommended by the Head of Planning and Regeneration

(Proposed by Cllr C J Eginton and seconded by Cllr F W Letch)

Notes:

- (i) Cllr R J Dolley declared a personal interest as he knew some of the objectors and had played skittles in the village;
- (ii) Cllrs Mrs H Bainbridge, Mrs C A Collis, Mrs F J Colthorpe, R J Dolley, C J Eginton, D J Knowles, F W Letch, B A Moore and J D Squire made declarations in accordance with the Protocol of Good Practice for Councillors Dealing in Planning Matters as they had all received correspondence regarding this application;
- (iii) The initial proposal to support the officer's recommendation of approval was not supported with Cllrs R J Dolley and F W Letch requesting that their abstention from voting be recorded. A further proposal to refuse the application on the grounds of sustainability was also not supported. Further consideration was then given to the implications report and the issues of sustainability regarding exception sites in the open countryside and the final resolution (above) was achieved, with Cllrs Mrs H Bainbridge and Mrs C A Collis requesting that their vote against the decision be recorded;
- (iv) \*Report previously circulated copy attached to signed minutes.

(The meeting ended at 4.10 pm)

**CHAIRMAN**

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## PLANNING COMMITTEE AGENDA – 6<sup>th</sup> September 2017

### Enforcement List

<u>Item No.</u>	Description
1.	ENF/17/00180/COU - Change of use of part of a building to a single dwellinghouse in breach of condition 7 to planning permission 07/00257/FULL; The areas indicated as work areas on the approved drawings shall be permanently retained for B1 purposes in connection with and ancillary to the occupation of the respective dwelling and shall not be used for additional residential accommodation or let, sold or otherwise occupied independently of the dwelling – Annexe, Pitt Barn, Washfield, Tiverton EX16 9QU
2.	ENF/17/00181/COU - Change of use of part of a building to a single dwellinghouse in breach of condition 7 to planning permission 07/00257/FULL; The areas indicated as work areas on the approved drawings shall be permanently retained for B1 purposes in connection with and ancillary to the occupation of the respective dwelling and shall not be used for additional residential accommodation or let, sold or otherwise occupied independently of the dwelling – Annexe, Pitt Stable, Washfield, Tiverton EX16 9QU

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**Case No.** ENF/17/00180/COU**Grid Ref:** 292640 115444**Address:**

Annexe , Pitt Barn, Washfield , Tiverton

**Alleged Breach:**

Change of use of part of a building to a single dwellinghouse in breach of condition 7 to planning permission 07/00257/FULL;

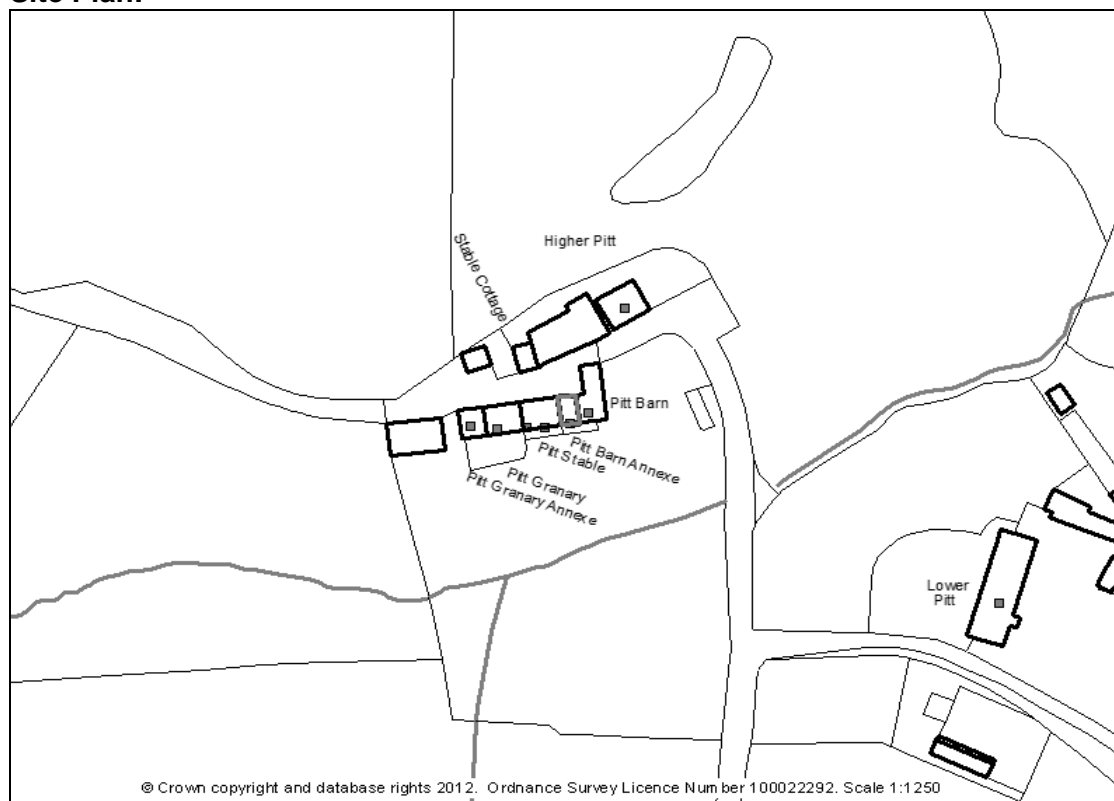
The areas indicated as work areas on the approved drawings shall be permanently retained for B1 purposes in connection with and ancillary to the occupation of the respective dwelling and shall not be used for additional residential accommodation or let, sold or otherwise occupied independently of the dwelling.

**Recommendations:**

That Members, having regard to the provisions of the Mid Devon Development Plan and all other material planning considerations in accordance with Section 172, Town and Country Planning Act 1990, ("the Act") should grant authority to the Legal Services Manager take all such steps and action necessary to secure the cessation of the unauthorised change of use, 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 Washfield, approximately 3 miles north-west of Tiverton. The site comprises a number of buildings which have been converted from redundant agricultural buildings at Higher Pitt Farm, Washfield. It is located in the open countryside lying to the north of the A361 North Devon Link Road.

**Site Plan:**

**Site History:**

07/00257/FULL – conversion of redundant farm buildings to 3 live/work units – PERMIT

**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)**

DM2 - High quality design

DM8 - Parking

DM11- Conversion of rural buildings

DM31 - Planning enforcement

**Reasons/Material Considerations:**

In 2007 conditional planning permission was granted for the conversion of redundant farm buildings to three live/work units at Higher Pitt Farm, Washfield.

It is understood the development commenced shortly after permission was granted and Council records suggest the three converted live/work units were occupied from late 2011/early 2012.

On 16th September 2013 it was brought to the attention of the Enforcement Team that the buildings had been converted to and were being occupied as six individual dwellings. The investigating Officer at the time undertook site visits and met with the owner and his agent and it was established that a breach of planning control had taken place - and by the owner's own admission the three work units were being let and occupied as separate dwellings without planning permission. The result was that there were six dwellings on site where there should be three.

At the end of 2014 the matter was left with the owner and his agent to submit a planning application. The matter remained dormant for some time and due to staff changes within the Enforcement Team and ongoing resource issues the case was not picked up before now.

It has been confirmed that no application was ever submitted for planning permission on the basis the Council was not chasing an application. Furthermore the breach of planning still exists in so much as the three work spaces are still being let and occupied as separate dwellings without planning permission.

Owing to the amount of time that has passed since the breach was confirmed in 2013 without any formal action being taken to secure the cessation of the unlawful use of the work units as dwellings, or to enforce compliance with condition 7 of the 2007 planning permission, and according to Council records, at least one of the work units has now been occupied as an independent dwelling for more than four years and is immune from any formal enforcement action. Insufficient evidence has been provided thus far that the other two units have been occupied for more than four years (on the balance of probability) and therefore their use as dwelling remains unlawful - albeit for a very short time as the window of opportunity for taking formal enforcement action expires very soon. Therefore, and to protect the Council's position, it is your Officer's opinion that formal enforcement action is commenced forthwith to secure the cessation of the unlawful use of the work units as dwellings. Given that the Council has been aware of the position since 2013, timely action is now required to prevent the matter becoming immune due to the passage of time.

Council records suggest that the Pitt Barn Annexe (the subject of this report) has been occupied since 7th September 2013 and therefore the last date it would be possible to issue an Enforcement Notice requiring the cessation of its use as a dwelling would be 6th September 2017.

### **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. Your Officers consider that planning permission would be necessary for the change of use described above and seek to assess its suitability as sustainable development. Furthermore a planning application would enable Officers to assess whether there is any policy support for the use of the unit as a dwelling and if necessary control that use with conditional permission.

Given the circumstances of this case the immediate serving of an Enforcement Notice is necessary to stop the clock. It is proposed that a period of three months is given before the Enforcement Notice takes effect instead of the usual 28 day period. This is to allow for the

situation to be regularised if possible before the Notice takes effect. In the event that either planning permission is granted or the use of the building as a dwelling is proven to be lawful then then Council would withdraw the Enforcement Notice.

The current unlawful use is considered to be contrary to policy COR18 of the Mid Devon Core Strategy 2026 and policies DM2, DM8, DM11 and DM31 of the Mid Devon Local Plan Part 3.

**Case No.** ENF/17/00181/COU

**Grid Ref:** 292630 115457

**Address:**

Annexe , Pitt Stable, Washfield , Tiverton

**Alleged Breach:**

Change of use of part of a building to a single dwellinghouse in breach of condition 7 to planning permission 07/00257/FULL;

The areas indicated as work areas on the approved drawings shall be permanently retained for B1 purposes in connection with and ancillary to the occupation of the respective dwelling and shall not be used for additional residential accommodation or let, sold or otherwise occupied independently of the dwelling.

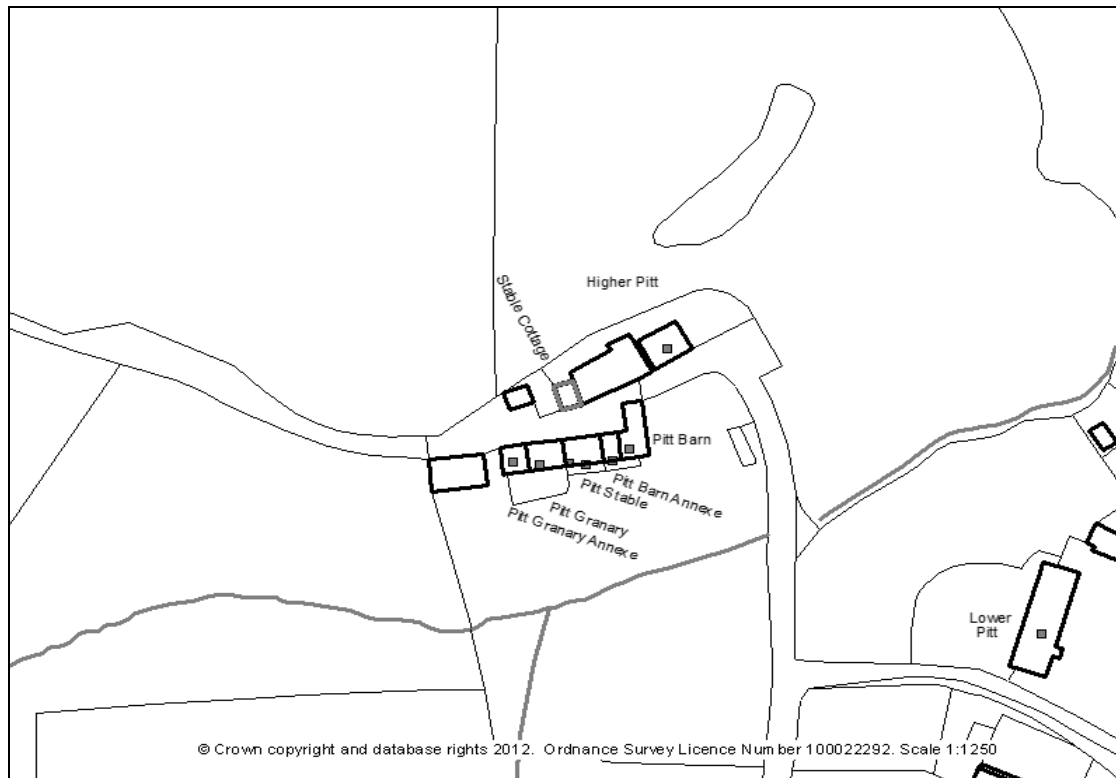
**Recommendations:**

That Members, having regard to the provisions of the Mid Devon Development Plan and all other material planning considerations in accordance with Section 172, Town and Country Planning Act 1990, ("the Act") should grant authority to the Legal Services Manager take all such steps and action necessary to secure the cessation of the unauthorised change of use, 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 Washfield, approximately 3 miles north-west of Tiverton. The site comprises a number of buildings which have been converted from redundant agricultural buildings at Higher Pitt Farm, Washfield. It is located in the open countryside lying to the north of the A361 North Devon Link Road.

**Site Plan:**



**Site History:**

07/00257/FULL - conversion of redundant farm buildings to 3 live/work units - PERMIT

**Development Plan Policies:**

National Planning Policy Framework

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

COR 18 - Countryside

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

DM2 - High quality design

DM8 - Parking

DM11- Conversion of rural buildings

DM31 - Planning enforcement

**Reasons/Material Considerations:**

In 2007 conditional planning permission was granted for the conversion of redundant farm buildings to three live/work units at Higher Pitt Farm, Washfield.

It is understood the development commenced shortly after permission was granted and Council records suggest the three converted live/work units were occupied from late 2011/early 2012.

On 16th September 2013 it was brought to the attention of the Enforcement Team that the buildings had been converted to and were being occupied as six individual dwellings. The investigating Officer at the time undertook site visits and met with the owner and his agent and it was established that a breach of planning control had taken place - and by the owner's own admission the three work units were being let and occupied as separate dwellings without planning permission. The result was that there were six dwellings on site where there should be three.

At the end of 2014 the matter was left with the owner and his agent to submit a planning application. The matter remained dormant for some time and due to staff changes within the Enforcement Team and ongoing resource issues the case was not picked up before now.

It has been confirmed that no application was ever submitted for planning permission on the basis the Council was not chasing an application. Furthermore the breach of planning still exists in so much as the three work spaces are still being let and occupied as separate dwellings without planning permission.

Owing to the amount of time that has passed since the breach was confirmed in 2013 without any formal action being taken to secure the cessation of the unlawful use of the work units as dwellings, or to enforce compliance with condition 7 of the 2007 planning permission, and according to Council records, at least one of the work units has now been occupied as an independent dwelling for more than four years and is immune from any formal enforcement action. Insufficient evidence has been provided thus far that the other two units have been occupied for more than four years (on the balance of probability) and therefore their use as dwelling remains unlawful - albeit for a very short time as the window of opportunity for taking formal enforcement action expires very soon. Therefore, and to protect the Council's position, it is your Officer's opinion that formal enforcement action is commenced forthwith to secure the cessation of the unlawful use of the work units as dwellings. Given that the Council has been aware of the position since 2013 timely action is now required to prevent the matter becoming immune due to 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. Your Officers consider that planning permission would be necessary for the change of use described above and seek to assess its suitability as sustainable development. Furthermore a planning application would enable Officers to assess whether there is any policy support for the use of the unit as a dwelling and if necessary control that use with conditional permission.

Given the circumstances of this case the immediate serving of an Enforcement Notice is necessary to stop the clock. It is proposed that a period of three months is given before the Enforcement Notice takes effect instead of the usual 28 day period. This is to allow for the situation to be regularised if possible before the Notice takes effect. In the event that either

planning permission is granted or the use of the building as a dwelling is proven to be lawful then then Council would withdraw the Enforcement Notice.

The current unlawful use is considered to be contrary to policy COR18 of the Mid Devon Core Strategy 2026 and policies DM2, DM8, DM11 and DM31 of the Mid Devon Local Plan Part 3.



## PLANNING COMMITTEE AGENDA - 6th September 2017

### Applications of a non-delegated nature

<u>Item No.</u>	Description
01.	<p>17/00001/MOUT - Outline for the erection of 7 dwellings, improvements to access and change of use of agricultural land to community facility at Land and Buildings at NGR 294119 106891 (Adjacent to Highfield), Bickleigh, Devon.</p> <p><b>RECOMMENDATION</b> Refuse permission.</p>
02.	<p>17/00878/MOUT - Outline for the erection of up to 16 dwellings with associated access, landscaping and other ancillary development at Land at NGR 292294 101802 (South of Broadlands), Thorverton, Devon.</p> <p><b>RECOMMENDATION</b> Grant subject to conditions</p>
03.	<p>17/00886/MOUT - Outline for the erection of 30 dwellings and new vehicular and pedestrian accesses at Land at NGR 305578 112053, Uffculme Road, Uffculme.</p> <p><b>RECOMMENDATION</b> Refuse permission.</p>
04.	<p>17/00913/HOUSE - Erection of ancillary accommodation (Revised scheme) at 3 Hayne Barton Cottages, Cullompton, Devon.</p> <p><b>RECOMMENDATION</b> Grant permission subject to conditions.</p>
05.	<p>17/01251/FULL - Installation of new shop front at 10 Market Walk, Bampton Street, Tiverton.</p> <p><b>RECOMMENDATION</b> Grant permission subject to conditions.</p>

Application No. 17/00001/MOUT

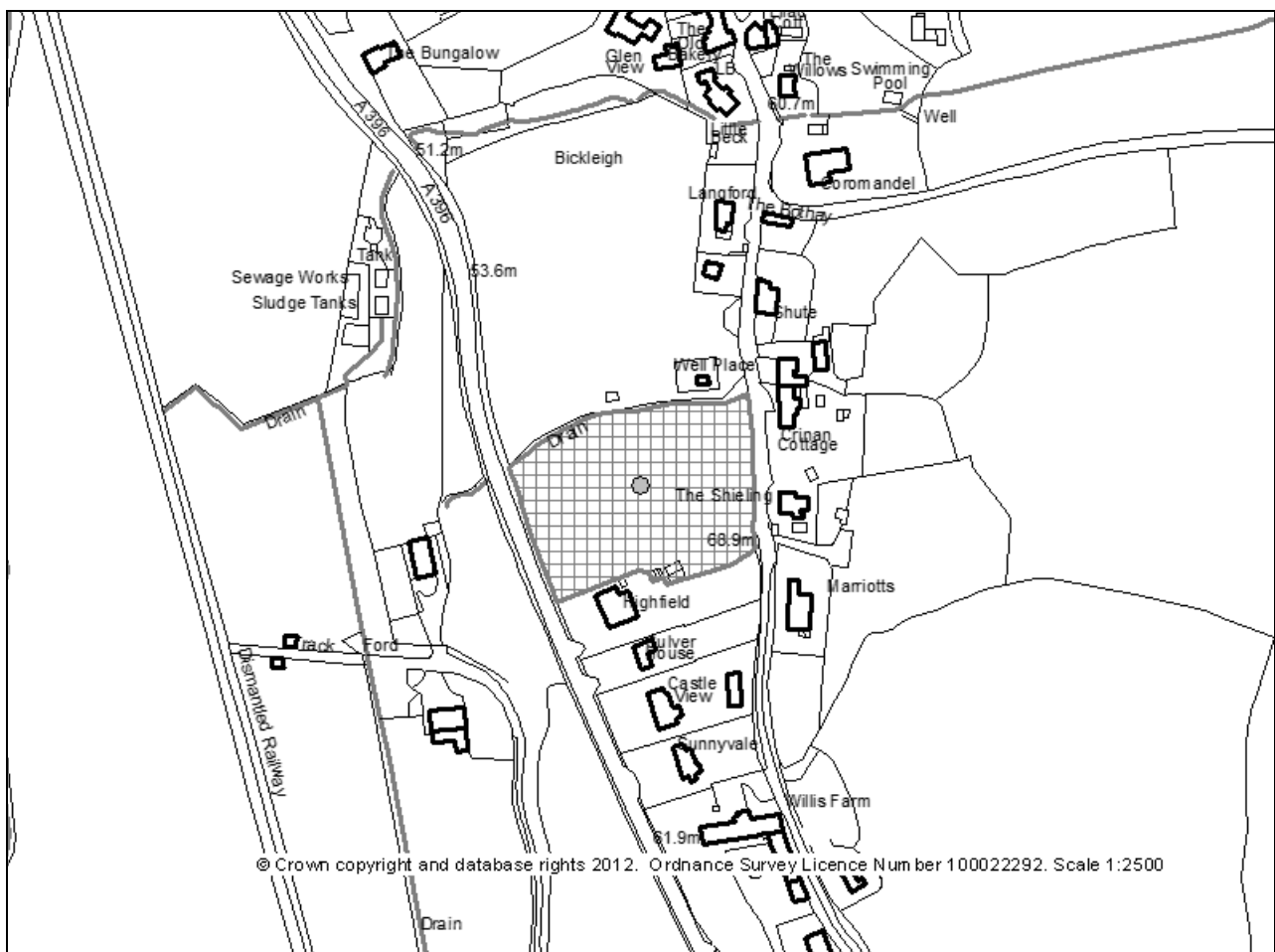
Grid Ref: 294118 : 106889

Applicant: Mr Jed Hewitt

Location: Land and Buildings at NGR 294119 106891 (Adjacent to Highfield)  
Bickleigh  
Devon

Proposal: Outline for the erection of 7 dwellings, improvements to access and change of use of agricultural land to community facility

Date Valid: 3rd January 2017



**RECOMMENDATION**

Refuse permission.

**COUNCILLOR BOB DEED HAS REQUESTED THAT THIS APPLICATION BE DETERMINED BY THE PLANNING COMMITTEE FOR THE FOLLOWING REASON:**

if minded to refuse to consider:

- i) the sustainability and impact on Bickleigh village and ii) the environmental impact

**PROPOSED DEVELOPMENT**

Outline planning permission is sought for the erection of 7 dwellings (of which none are proposed to be affordable) and associated infrastructure and community facility (play area/ 5 aside pitch) on land north of Highfield and to the south of the school in Bickleigh. It is also noted that the plans indicate that a building/some buildings on the site are to be converted to school use (although little details exist as to what use) and an orchard and nature reserve on the eastern boundary, together with the creation of a wetland habitat adjacent to the stream to the north.

The illustrative plans indicate 6 units of accommodation with a linking subsidiary structure that can be incorporated with the units to either side. This gives flexible accommodation ranging between 3 and 4 bedrooms. The seventh unit is a timber clad barn to house car parking and utilises the roof void to create a 2 bedroom dwelling. The same illustrative sketch shows formal garden areas are to the central courtyard area and to the north adjacent to the wetland and mature trees and hedge.

Existing housing forms the southern and eastern boundaries; the A396 forms the western boundary. The application is submitted in outline. In addition at this stage, the access details on the village road on the eastern boundary and the scale of the proposed development are also being determined in detail and all other matters remain as reserved matters for future consideration.

Bickleigh has no settlement limits and, as such, the site is within the countryside for planning purposes.

The site is within Flood Zone 1 (lowest flood risk).

The site is Grade 3 agricultural land.

**APPLICANT'S SUPPORTING INFORMATION**

Planning application forms, plans and certificates

Flood Note

Ecological Assessment

Planning Statement

Traffic and Access Note

D&A Statement

Heritage Statement

Hedge Assessment

**PLANNING HISTORY**

Previous outline applications (all withdrawn without determination) for 2 dwellings and access (86/01911) and 6 holiday lets and change of use of agricultural land to school playing field (12/01676).

## **DEVELOPMENT PLAN POLICIES**

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

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

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

AL/DE/3 - Affordable Housing Site Target  
AL/IN/2 - Development Without Community Infrastructure Levy  
AL/IN/3 - Public Open Space  
AL/IN/4 - Green Infrastructure  
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  
DM4 - Waste management in major development  
DM7 - Pollution  
DM8 - Parking  
DM14 - Design of housing  
DM15 - Dwelling sizes  
DM25 - Community facilities  
DM27 - Development affecting heritage assets

## **CONSULTATIONS**

**BICKLEIGH PARISH COUNCIL** - 20th February 2017 - Further to our letter of the 24th January last, we would like to take this opportunity to draw your attention to the recent statement made in Parliament by the Secretary of State for Communities and Local Government, the Rt. Hon. Sajid Javid MP, to the effect that Green Belt land should now be held to be more sacrosanct than has hitherto been the case.

We would also point out something that we failed to do in the aforementioned letter, and that is that the creation a new access facility to this site no matter where it is positioned, will result in a considerable - and yet more - loss of prime Devon Bank in what is, as we have already stated, a Conservation Area.

6th February 2017 - Please note that this Parish Council unanimously object strongly to this proposal and recommend in no uncertain terms that it be refused.

1. We believe that this development does not accord with the requirements of the National Planning Policy nor does it accord with any of MDDC's currently adopted Local Plan, Structure Plan or Core Strategy Plans.

2. The access proposal is inherently unsafe. The village road at this point is only in the region of 3 metres wide, along with the majority of the rest of it, there are no footpaths, any number of blind or semi-blind dwelling entrances and there are a good number of children living in the village. If this goes ahead as proposed, it will cause untold problems from the construction traffic along with all the inherent dangers that that will produce, notwithstanding the fact that it will probably eventually introduce 14 or more additional permanent vehicles along with their associated 'traffic movements'. This village road simply cannot take it; we have a 20mph speed limit here and as it is a number of drivers simply choose to ignore it, so there is

already a significant problem. Vehicular access needs to be from the A396, possibly with the introduction of a roundabout.

3. This site is within a conservation area - what is the point of having the designation of a conservation area if it is allowed to be concreted over.

4. These proposed properties will not be able to be classified as affordable to first time buyers, as Bickleigh, because of its thus far relatively unspoilt character is a sought after area and commands premium prices.

5. There is a significant degree of local opposition to development of this site as it prime agricultural land and is still used as such, also, such a scheme would have a detrimental effect upon the character of the place. In this respect particularly, there are few villages left in this county that have not been spoilt and indeed had the heart ripped out of them by what, certainly in hindsight, is totally inappropriate development and these places certainly fall into this category. Bickleigh is still one village that is reasonably still intact. One has, over time, gleaned from comments made by a substantial numbers of visitors that this is the one thing that particularly attracts them to the area and it is primarily these visitors that maintain the few businesses that still remain.

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

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

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

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

9. We would draw your attention to the fact that the letters of 'support' for this application emanate from here there and everywhere. Everywhere, that is, except from this Parish.

10. The provision of the 'five a side' pitch for the school is a sop. Firstly, one does not place such a facility on the side of a hill, secondly, the children, in the form of a walking bus along this narrow road, will be in an even more precarious situation than they are using their present facility.

11. There is no provision for the maintenance of the 'public' areas attached to this proposal. Please be fully aware that this Parish Council will not accept responsibility for this.

12. If this proposal is given the go-ahead, in this day and age, it should only be done with the proviso that it is a zero carbon emission development.

**DEVON COUNTY EDUCATION** - 25th January 2017 - The above application is for 7 family-type dwellings, which will generate an additional 1.75 primary pupils and 1.05 secondary pupils.

There is currently capacity at the nearest primary and secondary school for the number of pupils likely to be generated by the proposed development and therefore a contribution towards education infrastructure would not be sought for this development. Devon County Council will however seek a contribution towards secondary school transport due to the proposed development site being further than 2.25 miles from Tiverton College. The costs required are as follows: -

2.00 secondary pupils

£3.79 per day x 2 pupils x 190 academic days x 5 years = £7,201.00

**LEAD LOCAL FLOOD AUTHORITY** - 23rd January 2017 - At this stage, we object to this planning application because we do not believe it satisfactorily conforms to Policy DM2, specifically part (f), of Mid Devon District Council's Local Plan (Adopted October 2013), which requires developments to include

sustainable drainage systems. The applicant will therefore be required to submit additional information in order to demonstrate that all aspects of the proposed surface water drainage management system have been considered.

The applicant has not provided any information in relation to the disposal of surface water from the site to enable me to make observations on the proposal. The applicant must therefore submit a surface water drainage management plan which demonstrates how surface water from the development will be disposed of in a manner that does not increase flood risk elsewhere, in accordance with the principles of Sustainable Drainage Systems.

The applicant is therefore advised to refer to Devon County Council's draft Sustainable Drainage Design Guidance, which can be found at <https://new.devon.gov.uk/floodriskmanagement/sustainable-drainage/>.

I would also add that for outline planning applications, we require the following information for review:

Description of the type of development;

Location plan at an appropriate scale with a grid reference, showing geographical features, street names, watercourses, or other water bodies in the vicinity;

Site plan showing the red line boundary and any land under the applicants' control;

Site survey showing the existing topography;

Assessment of all existing flood risks to the site, including from sewer networks, groundwater, overland surface water flows, reservoirs, ponds, canals, and other watercourses;

Calculations of the current surface water runoff rates and volumes for the site;

Calculations of the proposed surface water runoff rates and volumes for the site;

Calculations of the surface water attenuation storage volume required for the 1 in 100 (+40% allowance for climate change) year rainfall event;

Calculations of the long term storage volume required to store the additional volume of surface water runoff caused by any increase in the site's impermeable area;

Evidence that the site has an agreed point of discharge;

Evidence that the hierarchy of drainage solutions has been followed, providing robust evidence as to the viability or otherwise of:

1. Discharge into the ground (infiltration);

2. Discharge to a surface water body (with written permission from the riparian owner);

3. Discharge to a surface water sewer, highway drain, or other drainage system (with written permission from South West Water Ltd., Devon County Council Highways, or the riparian owner, respectively);

4. Discharge to a combined sewer (with written permission from the riparian owner).

Evidence that the capacity of any receiving watercourse is sufficient to receive concentrated flows from the site;

Explanations of the proposed flood risk mitigation measures;

Non-technical summary of the proposed surface water drainage management system; Plans of the proposed surface water drainage management system, demonstrating that it fits within the proposed site layout, and is practical and sustainable;

Outline operation and maintenance plan and timetable for the proposed surface water drainage management system over the entire lifetime of the development.

**HIGHWAY AUTHORITY** - 8th March 2017 - The Highway Authority has visited the site and has listened to the concerns raised about the development. The site cannot be accessed from the A396 due in part to the topography and the visibility required and the Highway Authority concurs with the details submitted by the applicants as part of the design and access statement. Therefore access from the country lane is the only access for consideration. The access is acceptable subject to the appropriate visibility splays being imposed and a splay measuring 2.4 m back along the centre line of the access and extending to a point on the nearside carriageway edge 25.00 m either side of the access with no obstruction greater than 600 mm should be provided. However, while there is a 20mph speed limit there are no traffic calming measures to contain speeds to this level and higher speeds were observed.

While this section of road would be considered as lightly trafficked and the traffic generated by the development along the route would not be considered as severe, there are concerns over the proposal and the substandard nature of the road and lack of pedestrian footways, and areas of conflict. These are exacerbated by the provision of the sports pitch which while beneficial to the school would necessitate

children to walk the 200 m over the road network where there are blind bends and narrow sections without opportunity for refuge. There are no warning signs of school children or of pedestrians in the road.

The footpath linking the school to the lane is informal and would benefit from being made more formal over its entire length from the school to the highway. The Highway Authority would ask whether or not it would be possible for a footway link to be made to the site from the school completely off road which would overcome the conflict concerns.

Therefore the Highway Authority would currently recommend refusal of the application for the following reason.

1. The proposed development is likely to generate an increase in pedestrian traffic on a highway lacking adequate footways with consequent additional danger to all users of the road contrary to paragraph 32 of the National Planning Policy Framework.

**ENVIRONMENTAL HEALTH** - 10th January 2017

Contaminated Land - no objections to these proposals

Air Quality - no objections to these proposals

Environmental Permitting - no objections to these proposals

Drainage - no objections to these proposals

Noise & other nuisances - no objections to these proposals

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

**NATURAL ENGLAND** - 6th January 2017 - No comments

**DEVON, CORNWALL & DORSET POLICE** - 4th January 2017 - no objections

**SPORT ENGLAND** - 25th January 2017 - In accordance with Paragraph 011 of NPPG (Article 22 of the Development Management Procedure (England) Order 2015), Sport England will respond to this consultation within 21 days of the date of acceptance.

However, if insufficient information is received in order to allow us to make a substantive response to the consultation, Sport England will contact you to request further information. The 21-day deadline will not commence until receipt of the additional information.

As a public body, Sport England is subject to the terms of the Freedom of Information Act 2000, which gives members of the public the right to access the information we hold. In the event of a request being received, we will be obliged to release information relating to the application and our response unless an exemption in the Act applies. You should therefore inform us if you believe any elements of your submission to be confidential or commercially sensitive so that we can take your concerns into account.

**WALES & WEST UTILITIES GAS NETWORK** - 2nd March 2017 - Wales & West Utilities has pipes in the area. Our apparatus may be affected and at risk during construction works. Should the planning application be approved then we require the promoter of these works to contact us directly to discuss our requirements in detail before any works commence on site. Should diversion works be required these will be fully chargeable. You must not build over any of our plant or enclose our apparatus.

**ENVIRONMENT AGENCY** - 3rd January 2017 - Operational development less than 1ha within Flood Zone 1  
- No consultation required.

## REPRESENTATIONS

13 letters of objection received at the time of writing (28/06/2017), the planning issues summarised as follows:

1. This is further disruption to the overall layout of the village.
2. We do not seem to be being notified as a Grade 1 listed property of planning developments which are directly impacted by view and sound to the environment that forms part of the setting of Bickleigh Castle which is protected under heritage planning rules.
3. The lane through the village isn't suitable for the increase in traffic from either direction.
4. This would increase the risk to emergency vehicle access.
5. This would increase the risk to pedestrians, the young and elderly especially as there are no pavements.
6. The local sewage processing plant is unsuitable for the increase in black water and grey water from the proposed site.
7. Changing the upper part of the site from agricultural to a playing field/sports field 'community facility' is just a back door way of allowing easy future applications for more properties to be built within a short period (probably three to seven years).
8. This will also set a precedent for the adjoining fields to be built on which will lead to the village as it is being destroyed with up to eighty modern properties within twenty years.
10. Additionally this will encourage 'infill' building sites on existing plots so completing the destruction of a conservation area of historic and natural beauty.
11. Many of the supporters for this proposed site to go ahead are of the opinion 'I want to live in the village, there is not a property for ME so build one for ME' attitude. This is a poor and selfish reason as it will only destroy the village that they crave.
12. This would be a change of use from prime agricultural land to development land.
13. In a Conservation Area and therefore should be offered special protection.
14. There is no shop at Bickleigh Mill that sells day-to-day necessities
15. The school has the benefit of a full-size football pitch, also a cricket pitch and Joans Orchard. There is no demand for an additional school play area particularly where pupils would walk through the narrowest part of the village. Who would pay for the maintenance of the 5 side pitch?
16. The land slopes and is not suitable for a playing field.
17. To create a new access road in a very narrow part of the lane, skirting the play area to homes at the bottom of the site has serious safety concerns. Should the planning committee be so determined to allow the village to expand further an entrance/exit from the A396 would at least be the most sensible and safe option. This would have the added advantage of slowing down road traffic on the ignored 40mph speed limit and make getting into and out of the existing properties which front the main road much safer.
18. There MUST be access directly from the A396 in the form of a roundabout or similar.
19. The lanes through Bickleigh are very narrow and there are no pavements and no street lights. School children and elderly residents live and walk along these rural lanes. Dog walkers use them regularly day and night. Residents use this stretch of road regularly to get to the post box. There are several blind spots and pinch points. We often have to reverse through the village when we reach a narrow section, to allow oncoming cars past. This poses a hazard to pedestrians in itself, especially in the dark.
20. The plans show a number of trees on the eastern boundary. These trees once established will significantly reduce the light to my property.
21. There is no mention on the application of the land for the playing field, orchard and nature reserve being given to the school or local council. If the landowner is to keep ownership they will be able to apply for further development in the future and the school will lose its playing field.
22. Does not show any rubbish collection or dog waste collection on the public areas. Who will be liable for the waste collection?
23. The planning states its social sustainability and economic viability credentials: none of the properties are going to be affordable or social housing. There is always a need for this type of housing in rural areas.
24. The southern junction of the village road to the A396 will need attention.



9 letters of support received at the time of writing (28/06/2017), summarised as follows:

1. Bickleigh has been made out as a perfect little village for far too long, whilst it stagnates, closes its facilities and the Parish council ploughs funds into victimisation of people trying to help the village regain its former position as a place worth living again.
2. Residents fail to maintain their own properties and thoroughways, yet are insistent on provisions to ensure the maintenance of somebody else's land, believe that children crossing Bickleigh bridge is safe, and that 'happy meadow' is a suitable playing field even though it is basically a bog for half the year, with the school being out of session for the majority of the time it is usable.
3. The objections are all just Nimbyism and unfounded comments.
4. Any person viewing this site as 'prime agricultural land' has not considered the alterations that would need to be undertaken to ensure it runs profitably, or how tractors and trailers would access the site.
5. The area is far from historic: the setting has already been destroyed by the addition of tile/slate roof garages and porches on thatch properties, the mass of council properties from the 60s/70s and the appalling state of the few historic properties present, which are by far the minority in the area.
6. The roads through Bickleigh are disastrous at times and this is because they are poorly maintained and the local residents park wherever is closest to their homes. The provision of a double yellow line and some street lighting would solve the majority of the traffic and safety issues in Bickleigh. Direct access from the A396 would be more of an issue than altering the existing access at this end of the village, as it would involve changing the layout of the road itself in order to ensure correct visible splays are present, and would do little but encourage the current residents to drive through the site in order to access the main road and bypass the village centre.
7. Fail to see why every objector believes that all traffic to this site must come through the centre of the village, instead of the more obvious route completely avoiding the village centre and school.
8. Once the school children have gone home, the area is literally dead, it is rare to see more than one or two residents after 4pm.
9. The creation of a playing field, orchard and nature reserve on a planning application can attach certain stipulations, such as the inability to change its use once accepted, and the creation of an S106 agreement could bind the maintenance, upkeep and usage of the areas, however such provisions are pointless in this stage of a planning application and would no doubt be requested by MDDC if a full application was submitted.
10. With the current house values in an area such as Bickleigh, affordable or social housing would not be suitable. The development is also not of a substantial enough size for affordable or social housing to be requested. The provision of a suitable sports pitch for the village is a great idea, I do not see how the slope at the top end of the site would affect anything, as a hard standing would be built to level, therefore removing the slope across the pitch/court and a widening of the current access would provide ample visibility along a road that sees very little traffic.
11. People need a place to live, it is a basic human right after all, and with the population booming, and increasing amounts of homeless, plus the lack of properties on the market and inability of the youth to get onto the housing ladder, due mainly to the shortage in supply driving prices up, this is needed.
12. Why should the struggling areas such as Tiverton, with little to no employment opportunities, no economic growth and the exact same transport links as Bickleigh have to suffer with 2000+ houses, destroyed views, and ill-conceived developments, yet a failing village in dire need of expansion, redevelopment and investment be left by the wayside. Sustainable developments with little impact on the surrounding area in outlying areas of already established villages. If each village in Mid Devon accepted 20 properties, the council would have met its housing supply by now. And maybe Bickleigh School would actually fill its student base through its catchment area.
13. If the residents of Bickleigh were interested in the wellbeing and development of their village, they would at least use opportunities such as this one to grab what they can for the village, or follow good planning guidelines and at least try to be positive about something, suggest an alternative, or try and discuss it with the developer.
14. This application is on a site that has operated at a loss since its purchase, both as a horse paddock or grazing land.
15. The properties will be located on the bottom end of the site, in line with the neighbouring properties, and is very secluded from the castle in the distance, and Bickleigh has the available facilities to support the development.
16. There are job opportunities in the local area. These businesses need support from the local community and this development will have a positive effect on them. It is also in perfect position for

- commuting with excellent transport links to Exeter and Tiverton by bus, or along the main road.
17. The current trend of development in Mid Devon is building in 3 already sizable towns, we do not feel that everybody wants to be forced to live in large towns or cities, opportunities need to be made available for people to live in a quiet village location such as Bickleigh.
  18. Although it can be said there is no actual need for a new sports pitch with changing rooms, there are some clear advantages of its development and positioning, along with the allowance of its use to local residents outside of school hours. Walking to the current playing field is extremely dangerous. Would it not be safer to walk a much shorter distance, along a disused lane, with a 20mph speed limit to use a sports field that has adequate drainage for winter use.
  19. The same can be said about the village nature reserve, or Byways. It is located over a mile and a half away from the school, across Bickleigh Bridge, surely one being developed in the village itself, with safe access only 100 yards away would be preferential.
  20. The location for the development could not be in a safer part of the village, it is separated from the core along a barely used lane with a 20 mile an hour limit, after spending some time observing the traffic movements at the village 'rush hours' in which a total of 3 cars passed the site.
  21. As owners of this land we have taken on board the villagers opinions concerning the previous application on the land and have applied for a residential development instead of holiday lets. This land has little to no value agriculturally due to its location within the village, the local residents envisage 8 or 9 cars to be a traffic problem, agricultural vehicles would undoubtedly be more of an issue. So it is of our opinion that a small residential development would be a much more fitting use of the land.
  22. Bickleigh can easily accommodate another 7 houses, the other 4 that have been approved are at the other end of the village and I see no reason why the residents of the proposed 7 dwellings would need to drive through the village centre when they have a barely used turning onto the main road at the other end of the village, significantly closer to the development.
  23. Bickleigh has declined to do a neighbourhood plan purely because they would have needed to make provisions for the future and designate land for development. We need younger families with children living within this village in order to make the school sustainable, or it will eventually be forced down the same route as the post office and village shop, closure due to the stagnation of what used to be a picturesque and idyllic village.
  24. Would like to move to a village location and Bickleigh appeals to us. The design is very appealing and provides a variety of housing for different needs which will bring young people and young families into the village. It is a rare opportunity to find a new affordable house in a village location.
  25. This development could improve the visual appearance and balance to this part of the village.
  26. This small development was designed by an award winning conservation architect. The design has carefully considered local village design and architecture. The development is positioned low down the site. The development is in line with the existing properties to the south. The visual impact across the valley to the Bickleigh Castle and existing properties is minimal due to screening by mature tall hedgebanks on the opposite side of the A396 to the west, It is very hard to see the site from across the valley even through the trees dormant this time of year.
  27. The proposal has acceptable impact in highway design and ecology. This development will contribute towards the five year supply of deliverable housing with benefits to the community. Other developments have been approved in a conservation area within the Mid Devon area. This proposal makes a positive contribution in appearance and also safeguards the character and amenities of the area.
  28. The access road has a 20mph speed limit and has minimal traffic use
  29. Let's not forget the beautiful Church in Bickleigh also, struggling to get parishioners to support it and keep it going for the benefit of future generations. Buildings of historical and architectural importance like this need the support of many, not just a few.

## **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

The main determining factors in this application are:

- 1. Adopted and emerging planning policy and 5 year housing supply**
- 2. Highways and highway safety**
- 3. Loss of agricultural land**
- 4. Provision of playing fields**
- 5. Flooding and drainage**
- 6. Affordable housing provision**
- 7. Landscape and visual impact**
- 8. Ecology**
- 9. Living conditions of the occupiers of nearby residential properties**
- 10. S106 Obligations**
- 11. Sustainable development balance**
- 12. Other matters raised**

### **1 Adopted and emerging planning policy and 5 year housing supply**

The Government's commitment to a "plan led" planning system is apparent throughout the NPPF. Paragraph 2 acknowledges the statutory presumption in favour of the development plan in section 38(6) of the Planning and Compulsory Purchase Act 2004, and the status of the NPPF as another material consideration. The NPPF states that full weight may be given to relevant policies adopted since 2004 (and in accordance with the Planning and Compulsory Purchase Act 2004) even if there is a limited degree of conflict with the NPPF. The policies described in the following paragraphs have all been adopted since 2004. Broadly speaking, in relation to this current proposal the Development Plan has limited conflict with the NPPF.

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

Policy COR18 seeks to control development outside defined settlement limits to appropriate rural uses, excluding new market housing. The development is on agricultural land (see section 3 below - loss of agricultural land) and at present the whole of the site lies in the countryside in planning terms. The site is not allocated and is not being proposed for 100% affordable housing. The proposal is therefore considered to be contrary to policy COR18 of Mid Devon's adopted development plan.

However, at appeal in 2016 the Authority was found not to be able to demonstrate a 5 year housing land supply and in the interim, that position has not changed substantially. The NPPF advises that where a five year land supply of deliverable housing sites cannot be demonstrated, policies on housing supply should not be considered up to date. This includes settlement limits identifying areas which are countryside and those which are within defined settlements.

Paragraph 14 of the NPPF states that where development plan policies are considered to be out of date, planning permission should be granted unless adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the NPPF as a whole OR specific policies in the NPPF indicate development should be restricted. Housing applications need therefore to be considered in the context of sustainable development, unless specific policies indicate development should be restricted.

Policy COR18 is directly relevant to the supply of housing in the District and is now considered to be out of date in this regard. This does not mean that Mid Devon's policies must be cast aside, but the weight given to them is proportionate to their consistency with the National Planning Policy Framework (NPPF).

With regard to the Council's emerging policy (Local Plan Review), the strategy for development focus will be at Tiverton, Cullompton and Crediton as identified in policy S1 and S2. The Local Plan Review was submitted to the Planning Inspectorate at the end of March 2017. It does not propose to allocate any part of the site as a residential allocation. The emerging Plan has not been subject to examination. Accordingly only limited weight can be attached to the policies and proposals, which may be subject to change.

The site does not sit within a Neighbourhood Plan area.

Therefore, whilst the application site is outside any settlement limits, in the absence of a currently demonstrated 5 year supply of housing land, the policies which define settlement limits on an adopted plan should not be considered up to date. For decision-making this means, by reference to the fourth bullet point of paragraph 14 of the Framework, granting permission unless any adverse effects of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. This balance is undertaken in Section 13 of this report.

## **2. Highways and highway safety**

The point of access is not reserved for future consideration. Sole access to the site is proposed to be from the village road. The lane is currently around 2.5 metres to 3 metres wide in the vicinity of the site. It is not proposed that as part of the proposed development the carriageway width will be upgraded or a footway installed.

The access proposals include the creation of a 4.2 metres wide access road into the site with visibility splays of 2.4 metres x 25 metres.

Pedestrian access would also appear to be provided at the same location.

The Highway Authority has indicated that the site cannot be accessed from the A396 due in part to the topography and the visibility required. Therefore access from the country lane is the only access for consideration. The access is acceptable subject to the appropriate visibility splays being imposed. However while there is a 20mph speed limit there are no traffic calming measures to contain speeds to this level and the Highway Authority observed higher speeds.

While traffic along this section of road would be considered as lightly trafficked and the traffic generated by the development along the route would not be considered as severe, the Highway Authority has concerns over the proposal due to the substandard nature of the road, lack of pedestrian footways, and areas of conflict. These would be exacerbated by the provision of the sports pitch which, while beneficial to the school, would necessitate children to walk the 200 metres over the road network where there are blind bends and narrow sections without opportunity for refuge. In addition, there are no warning signs of school children or of pedestrians in the road.

The Highway Authority recommend refusal of the application on the ground that the proposed development is likely to generate an increase in pedestrian traffic on a highway lacking adequate footways with consequent additional danger to all users of the road. Therefore the proposed development is contrary to paragraph 32 of the National Planning Policy Framework.

Interested parties have indicated that the southern junction of the village road to the A396 will need attention. This junction has not been earmarked as requiring upgrading by the Highway Authority.

## **3. Loss of agricultural land**

Paragraph 112 of the NPPF requires that local planning authorities should take into account the economic and other benefits of the best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality.

The Local Planning Authority has information that the land is Grade 3 with a limited amount of Grade 4, but

no information as to whether it is Grade 3a (best and most versatile) or Grade 3b. In the absence of such information and an assessment of alternative locations, the Council cannot be satisfied that the application scheme is the only realistic alternative, but cannot recommend a reason for refusal based on the need to consider the use of "best and most versatile" land.

#### **4. Provision of playing field/community facility**

Policy DM25 governs community facilities. Development of new community facilities should provide a local community benefit and be permitted where they are easily accessible by the local community and well related to a settlement.

Paragraph 73 of the NPPF notes that access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities. Planning policies should be based on robust and up-to-date assessments of the needs for open space, sports and recreation facilities and opportunities for new provision. The assessments should identify specific needs and quantitative or qualitative deficits or surpluses of open space, sports and recreational facilities in the local area. Information gained from the assessments should be used to determine what open space, sports and recreational provision is required. Mid Devon's Open Space and Play Area Strategy 2014 does not contain an assessment of need for public open space in Bickleigh, although a very small under-supply of play space (0.02 hectares per 1000 population) and recreation space (0.02 hectares per 1000 population).

In any case, there is no mechanism submitted to the Council to secure and maintain the playing pitch or the buildings to be converted to school use as proposed by the applicant.

#### **5. Flooding and drainage**

The site is in flood zone 1 and indicates that the land is assessed as having a less than 1 in 1000 annual probability of river or sea flooding (<0.1%). Therefore, the risk of fluvial flooding at the site is low. There is a minor watercourse running along the northern boundary of the field and this is not shown to present any risk of flooding to the site.

A drainage plan and technical note have been submitted with the application and indicates that a cut off swale will be constructed along the northern and eastern boundary. Foul drainage is proposed to be to a package treatment plant.

Whilst it is appreciated that the application is outline in nature, the Lead Local Flood Authority objects to the proposal indicating that the applicant has not provided adequate information in relation to the disposal of surface water from the site. There is no surface water drainage management plan which demonstrates how surface water from the development will be disposed of in a manner that does not increase flood risk elsewhere, in accordance with the principles of Sustainable Drainage Systems. As such, the application has not demonstrated that the development of the site will not adversely affect the flood risk to others contrary to policy COR11 of the Mid Devon Core Strategy and the NPPF. A surface water drainage management plan has been submitted to the Local Planning Authority and a response to this document is awaited from the Lead Local Flood Authority (DCC).

#### **6. Affordable housing provision**

Policy AL/DE/3 of the AIDPD requires open market housing sites in rural area of more than 2 dwellings to provide affordable housing at 35% of the number of dwellings by which the site exceeds the 2 dwelling threshold (7-2x35%), rounded down to the nearest whole. For this application, there would be a need to provide 1 affordable dwelling.

Policy AL/DE/4 requires affordable housing to be limited to households in need of affordable housing and this would also be secured by a S106 Agreement. Policy AL/DE/5 seeks an inclusive design and layout for the affordable housing and this policy would be addressed at reserved matters stage

However, the Written Ministerial Statement of 28th November 2014 stated that affordable housing should

not be sought from development of 10 units or less or sites which have a maximum combined gross floorspace of no more than 1,000 sq m. For designated rural areas such as this, a financial contribution towards affordable housing provision elsewhere should be sought for developments of between 6 and 10 dwellings, the contribution to be calculated in accordance with the Meeting Housing Needs SPD, policy MHN/9.

The indicative plans indicate 7 dwellings. These are indicative plans and the floorspace could be either above or below the 1,000 sq m threshold once reserved matters are submitted. No affordable housing has been proposed by the applicants and no financial contribution towards off-site provision has been agreed. In order to agree such a contribution and independent financial assessment would need to be carried out as required by policy MHN/9 Meeting Housing Needs SPD.

## **7. Landscape and visual impact and impacts on heritage assets**

The site is within the Conservation Area. Consequently, in considering this application regard is to be had to Section 72 of The Planning (Listed Buildings and Conservation Areas) Act 1990, and also to policy COR2 of the Mid Devon Core Strategy and policy DM27 of the Local Plan 3 Development Management Policies. Regard is to be had to the statutory requirement that in considering this application special attention needs to be paid to the desirability of preserving or enhancing the character or appearance of the Conservation Area.

National policy guidance set out in the NPPF confirms the great weight in favour of the conservation of 'designated heritage assets', such as Conservation Areas and Listed Buildings. The particular significance of any heritage assets likely to be affected by a development proposal should be identified and assessed, including any contribution made by their setting. Any harm should require clear and convincing justification. The NPPF advises that the setting of a heritage asset can contribute to its significance. Opportunities should be sought for new development within Conservation Areas and within the setting of heritage assets that would enhance or better reveal the significance of the heritage asset. Proposals that preserve those elements of the setting that make a positive contribution to or better reveal the significance of the asset should be treated favourably.

The site is set on the southern edge of the Conservation Area, The applicant's own Design and Access Statement describes the village as "...a very attractive Devon settlement". The site itself is bounded on the western side by the A396 and to the west by what the applicant's Design and Access Statement describes as a "narrow lane". There is residential development to the south and a field to the north. There are mature hedges to all boundaries with a number of mature hedgerow trees. The site falls some 10m from the lane to the east to the A396. The Design and Access Statement indicates that the playing field will need to be cut into this slope.

The existing hedge along the eastern boundary is closely managed. The ecology report does not indicate that this is therefore less ecologically valuable. It will need to be partially removed to provide the new site access and visibility splays. The applicant's report from Aspect Tree Consultancy indicates that in order to retain the hedge to form the access point it would require moving the hedge and bank (Devon hedge bank) to realign it to a new position. The required visibility splay is 25m long - this would entail removing a small section of hedge to form the access point and then to move the two sections back by up to 2.4m at the centre (access) point with the movement of the southern and northern sections declining to almost nothing at the extents of the visibility splay.

Whilst the applicant seeks to show that the moving of the hedge to create the required visibility splays is technically possible, the Council is concerned that the character and appearance of the rural lane will alter to a significant degree. The site and the lane adjacent to it are within the Conservation Area. The significance of a Conservation Area as a designated heritage asset can derive from its setting, which is defined in the NPPF as the surroundings in which it is experienced. Views towards this part of the Conservation Area occur from the south and views from this direction allow appreciation of the setting of the Conservation Area. The Council contends that the proposal would not preserve or enhance the Conservation Area or its setting.

Bickleigh's development pattern is rather fluid with a central core of housing and then sporadic housing and farms dispersed alongside the roads in an ad hoc manner. This has been the case historically as evidenced

in the 1840s map. The Conservation Officer is not of the opinion that the development pattern of Bickleigh contributes significantly to its significance and thus this application does not cause harm in this regard only.

The heritage significance of this part of the Conservation Area derives from the relationship of the village with the surrounding countryside. The narrow lanes on all the main approaches to the village, enclosed by hedgerows or walls and with limited pavements, kerbs, and street lighting, reflect the rural character of the area. Even in the absence of any formal Conservation Area Appraisal by the Council, individual hedgerows and narrow lanes, their significance and importance to the Conservation Area is implicit in the character and appearance of the Conservation Area. The application site is located on one of these narrow lanes, close to the outer edge of the village. Consequently, both the hedgerow and the narrowness of the lane forms part of the character and appearance of the Conservation Area.

The plans indicate that an existing 3m access will be blocked up and an 11m wide bellmouth created to serve the proposed 4.2m wide access road from this narrow lane. As noted in the Aspect Trees Report a small section of hedge is to be removed to form the access point and then to move the two sections back by up to 2.4m at the centre (access) point with the movement of the southern and northern sections declining to almost nothing at the extents of the visibility splay. It is this urbanisation of the rural and narrow lane at this point that the Council are concerned with. Whilst it may be possible to retain the majority of the existing hedge in a new position, it would be set further back from the road behind the visibility splay and thus would erode the enclosed character formed by the existing hedgerow.

Furthermore, the creation of a tarmac (or other such hard surface) access would introduce a hard element to the streetscene which is predominantly formed of soft landscaping. Whilst it is appreciated that some residential properties in the locality have created bellmouth accesses onto this lane, they only serve as an example of the eroding effect such hard landscaping has on the rural character of the lane. They certainly do not provide justification for further erosion of the rural character of the Conservation Area, and for the reasons described, the proposal would make a negative contribution to the character and appearance of the Conservation Area. The combination of the placement of the hedgerow and the introduction of a hard landscaped vehicular access allowing glimpses of the manmade cut and fill playing pitch which would clearly visible would cause harm to the significance of the heritage asset, causing high levels of less than substantial harm to the rural character and sense of enclosure.

The Highways Authority has suggested the formalisation of a footpath on the road as one option to protect children in the road. Whilst this is not proposed as part of the development, any alteration to the plans to overcome such concern would be of concern to the Council in regard to the setting and character of the Conservation Area by adding to the suburban feel to an otherwise very rural lane character.

The development field in question is partially visible from Bickleigh Castle and there will be change to that view. However, there is some distance and screening by vegetation, trees etc. between the castle and the site which break up views. In the opinion of the Council there will be some minor change to views of the site from the castle but this change does not cause harm to the heritage asset.

There are a number of Grade II Listed Buildings, all to the east of the site, which have the potential to be affected by the proposed development. These thatched listed buildings are set at a slightly higher topographical level and currently have views across the valley towards Bickleigh Castle. The Council is sure that these were originally located on the land in this position to take advantage of those views (in part). The views from the listed buildings are not intrinsic to their significance, but their setting would be harmed by the change in character to their immediate environs due to the removal of hedgerow and change in the character of the lane. Whilst the section provided in the Heritage Statement identifies that the proposed houses will be reasonably far away and at a much lower height, there will be views from one property straight down the open front of the site and this openness is a major change, causing less than substantial harm to the setting of the listed buildings.

Due to the visual impact of the hedgerow relocation and the associated creation of a wide visibility splay required by the Highway Authority, the Conservation Officer is of the opinion that the proposal will cause high levels of less than substantial harm both to the character of the Conservation Area and the setting of the Listed Buildings to the east, and the Conservation Officer recommends refusal of the application for these reasons.

In accordance with paragraph 134 of the NPPF, the proposal has to weigh any public benefits associated with the development against the harm that would be caused. This is done in Section 13 of this report.

## **8. Ecology**

The submitted Ecological Assessment confirms that there are no over-riding wildlife reasons why the proposed application should be refused. No evidence of the presence of protected species was found on the site of the proposed development although suitable habitat for nesting birds and slow worms was recorded, but this was around the boundaries," in the hedges which will not be affected by the proposed development". It is not clear whether the significant works indicated in the Aspect Tree report to move the established hedge would alter this opinion.

The proposed development includes plans for a new orchard, wildlife area, pond/wetland area and landscaping/ tree planting which will all contribute to increasing the biodiversity value of the site.

Given appropriate mitigation, there are no ecological reasons that should prevent the construction of houses. Whilst ecological losses might be insignificant, the provision of habitat and species enhancement would be integrated into habitat creation, including landscape plantings (detailed at the reserved matters stage) that could combine native tree and shrubs with a proven valued to wildlife in order to result in a net increase in biodiversity, which is in accordance with policies DM2 and DM28 of the Local Plan Part 3 (DMP).

## **9. Living conditions of the occupiers of nearby residential properties**

Paragraph 17 of the NPPF indicates that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. This is reflected in policy DM14 of the Local Plan 3 Development Management Policies which sets out that new development should respect the privacy and amenity of neighbouring residents.

The illustrative layout indicates that some of the proposed dwellings would be adjacent to Highfield to the south. That property has raised some concern about the illustrative trees on the plan resulting in the loss of light to that property. The juxtaposition of any windows, the rooms they serve and the specific detail of proposed landscaping along this boundary is best assessed at the reserved matters stage.

There is sufficient distance and intervening topography and landscaping between the proposed dwellings and the neighbouring residential properties of The Shielling and Crinan Cottage to the east so as to not adversely affect the living conditions of the occupiers of those dwellings.

Overall, it is considered that it is possible for the reserved matters application to comply with policy DM2 of LP3 DMP with regard to allowing sufficient amenity for neighbouring users.

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

## **10. S106 Obligations**

As this application is recommended for refusal, whilst a financial contribution of £8,435 towards the provision of public open space (improvements to Bickleigh Recreation Ground) has been sought from the applicant under policy AL/IN/3 of the AIDPD, it has not been pursued.

Similarly, a request from Devon County Council for a financial contribution of £7,201 towards secondary school transport under policy AL/IN/5 has been requested but not pursued.

The application would also be required to make a financial contribution towards off-site affordable housing under policy AL/DE/3 of the AIDPD, the contribution to be calculated in accordance with the Meeting Housing Needs SPD, policy MHN/9.



In the event of an appeal against the issue of a refusal, the Council reserve the right to seek such financial contributions.

## **. 11. Sustainable development balance**

The NPPF sets a strong emphasis on the delivery of sustainable development. Fundamental to the social role is "supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations" (paragraph 7). In pursuit of sustainable development paragraph 9 notes the importance of "widening the choice of high quality homes". Paragraph 17 sets out 12 core principles which underpin both plan making and decision taking. Paragraph 47 clearly sets out the Government's aim to "boost significantly the supply of housing". The NPPF is clear that delivering sufficient housing is a key consideration for Local Authorities; however, the mix of housing types is also specifically mentioned within the NPPF (paragraph 50). Changes to the NPPF have recently been consulted upon consequent to the provisions of the Housing and Planning Bill, principally regarding the broadening of the definition of 'affordable housing' to include Starter Homes. Both the Regulations and the changes to the NPPF are still awaited.

It is acknowledged that the Council is presently unable to demonstrate that it has a 5 year supply of housing land and that policies relating to rural restraint are therefore out-of-date and the application needs to be assessed against the provisions of paragraph 14 of the Framework and DM1 of the Local Plan Part 3 (DMP). Paragraph 14 of the NPPF states that where development plan policies are considered to be out of date, planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the NPPF as a whole or specific policies in the NPPF indicate development should be restricted.

The proposal would make a welcome, albeit small contribution towards increasing housing supply in Mid Devon and weight must be given to this. There could also be some modest benefits to the local economy, arising from construction and sales, increased revenues to the Council in a New Homes Bonus, and additional spending by local residents on local services and facilities. Additional recreational land and play space proposed as part of the scheme would also provide a modest social benefit.

Other matters put forward in favour of the development include an absence of harm to archaeological remains or Scheduled Monuments, ecology, or the living conditions of the occupiers of nearby residential properties. Nonetheless, these are mitigating factors rather than benefits and the weight to be given to them is therefore limited.

However, in the planning balance, the statutory duty to pay special attention to the desirability of preserving or enhancing the area's character or appearance weighs heavily on the Council. The judgment of the Court of Appeal in the case of Barnwell Manor and other High Court judgments have re-affirmed the importance of this duty and of the similarly worded duty under Section 66 of the Act to have special regard to the desirability of preserving a listed building or its setting. Application of these judgments to the circumstances of an individual Conservation Area means that 'considerable and importance and weight' must be given to the desirability of preservation or enhancement in any balancing of the merits of a particular proposal. National policy guidance set out in the NPPF confirms the great weight in favour of the conservation of 'designated heritage assets'.

In this instance, the proposed development would neither enhance nor better reveal the significance of Bickleigh Conservation Area or the setting of nearby Listed Buildings. The Council conclude that the application proposal would not preserve or enhance the character or appearance of the Conservation Area. The harm in this case is assessed as a high degree of less than substantial in NPPF terms.

NPPF policies are also relevant to weighing the harm to designated heritage assets. Where, as here, the overall level of harm has been rated as 'less than substantial', the guidance of paragraph 134 of the NPPF is that the harm should be weighed against the proposal's public benefits. In this instance, the public benefits would primarily comprise the provision of new housing and some public benefit through the investment in new construction and the employment it would provide, together with the creation of the playing pitch for public use (although there are no details provided with regards to the ongoing maintenance and operation of the playing pitch).

While the proposed houses would make a welcome contribution to meeting outstanding need, the number involved would be minimal. None of the benefits would be of very great significance. On the other hand, the proposal's adverse lasting impacts on the character and appearance of the Conservation Area could be considerable, even if within the 'less than substantial' category.

The Barnwell Manor judgment has re-affirmed that less than substantial harm does not equate to a less than substantial objection. The judgment is clear that in the case of harm to the setting of a listed building or to the character or appearance of a Conservation Area, the 'strong presumption' against the grant of planning permission, identified by previous judgments as the correct application of Sections 66 and 72 of the Act, continues to apply.

In the light of the considerable importance and weight to be given to the desirability of preserving the character and appearance of Conservation Areas and the setting of LBs, the adverse impacts in this instance would significantly and demonstrably outweigh the benefits of the proposal. Therefore, planning permission should not be granted.

In addition, the proposed development does not accord with the provisions of Policy DM2, in particular criteria (c) and (e) which seek that new development creates a positive contribution to local character including any heritage assets and that visually attractive places are created where new development is well integrated with surrounding buildings, streets and landscapes.

In addition, the adverse highway impacts are significant and are considered to be severe in the context of the NPPF. The uncertainty with regard to the adequate disposal of surface water from the development also weighs against approval of the application, as does the current lack of affordable housing provision and financial contribution towards school transport.

Having regard to all material considerations, it is concluded that the application does not accord with the presumption in favour of sustainable development as the harm identified would significantly and demonstrably outweigh the benefits of the proposal. Therefore, when tested against Paragraph 14 of the Framework the Local Planning Authority consider that the adverse impacts of the proposed development would significantly and demonstrably outweigh the benefits when assessed against the policies of the NPPF as a whole, as well as being contrary to Policy COR1 of the Mid Devon Core Strategy (Local Plan Part 1) and Policy DM1 of the Mid Devon Local Plan Part 3 (Development Management Policies).

## **12. Other matters raised**

The Parish Council highlights that Green Belt land should be considered more sacrosanct than has hitherto been the case. Devon has no Green Belt land. Greenfield previously undeveloped land is necessary to supply the District's housing needs as there is insufficient brownfield previously developed land.

The Parish Council also raise concern that the proposed development should be zero carbon. Details of the proposed properties are reserved matters and, in any case, it is not the policy of this Council to pursue 100% zero carbon development.

Interested parties note that the proposed development might set a precedent for further development or that playing pitch will be built on in future years. Each application is dealt with on its own merits in light of the policies in force at that time. The Council will determine this application only and not pre-empt any subsequent application.

Interested parties have indicated that there may not be demand for the playing pitch. It is noted that there is no correspondence from the school or the Education Authority in this regard, but the highway authority do have significant safety concerns regarding school children walking along the Bickleigh village road to this site.

The Council have had regard to all other matters raised by interested parties and the applicant, but none of these matters, either individually or cumulatively, alter the overall conclusion. There are no other material considerations that would indicate that planning permission should be granted.

## REASONS FOR REFUSAL

1. The Local Planning Authority has a statutory duty under the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character of a Conservation Area. Section 66 of the Act indicates that the Local Planning Authority is to have special regard to the desirability of preserving a listed building or its setting. In addition, local and national policy attaches great weight to the conservation of heritage assets and there is a strong presumption against granting permission for development which does not preserve or enhance a Conservation Area. The sense of enclosure created by the existing hedgerow and the narrowness of the lane forms part of the character and appearance of the Conservation Area. Consequently, the creation of a vehicular access and its associated visibility splay would detract from the character and appearance of the Conservation Area and result in less than substantial harm to the designated heritage assets. The benefits of the proposal do not outweigh the proposal's adverse lasting impacts on that character and appearance and the appreciation of the setting of a group of listed buildings to the east of the site. This would be contrary to the statutory duty and policies COR2 of the Mid Devon Core Strategy (LP1), DM2 and DM27 of the Local Plan Part 3 Development Management Policies and the National Planning Policy Framework.
2. The proposed development is likely to generate an increase in pedestrian traffic on a highway lacking adequate footways with consequent additional danger to all users of the road contrary to paragraph 32 of the National Planning Policy Framework and policies COR1 and COR9 of the Mid Devon Core Strategy (Local Plan Part 1).
3. In the absence of a surface water drainage management plan, it has not been demonstrated that the proposed development will dispose of the surface water arising from the site in a manner that does not increase flood risk elsewhere in accordance with the principles of Sustainable Drainage Systems. As such, the proposed development has not demonstrated that it accords with Policies COR1 and COR11 of the Mid Devon Core Strategy (Local Plan Part 1).
4. In the absence of a completed S106 Legal Agreement or Unilateral Undertaking the proposal fails to mitigate against its direct impacts and does not, therefore, satisfy the provisions of Policies COR1 and COR8 of the Mid Devon Core Strategy (Local Plan Part 1), in the following ways:
  1. Measures to satisfy the public open space requirements (including play space, open space and sports pitches) of the development have not been secured, contrary to Policy AL/IN/3 of the Allocations and Infrastructure Development Plan Document (Local Plan Part 2)
  2. The proposed development triggers the need for an affordable housing contribution and without securing such a commitment the scheme fails to assist the District with its current housing needs issues and, as such, is contrary to Policy COR3 of the Mid Devon Core Strategy (Local Plan Part 1) and AL/DE/3 of the Allocations and Infrastructure Development Plan Document (Local Plan Part 2)
  3. The proposed development triggers the need for a contribution towards secondary school transport and, without securing such a commitment the scheme fails to mitigate against its direct impacts and does not satisfy the requirements of Policy COR8 of the Mid Devon Core Strategy (Local Plan Part 1) and AL/IN/5 of the Allocations and Infrastructure Development Plan Document (Local Plan Part 2).

## INFORMATIVE NOTE

1. This final reason for refusal could be overcome following the completion of a S106 legal agreement which addresses the above points.

Application No. 17/00878/MOUT

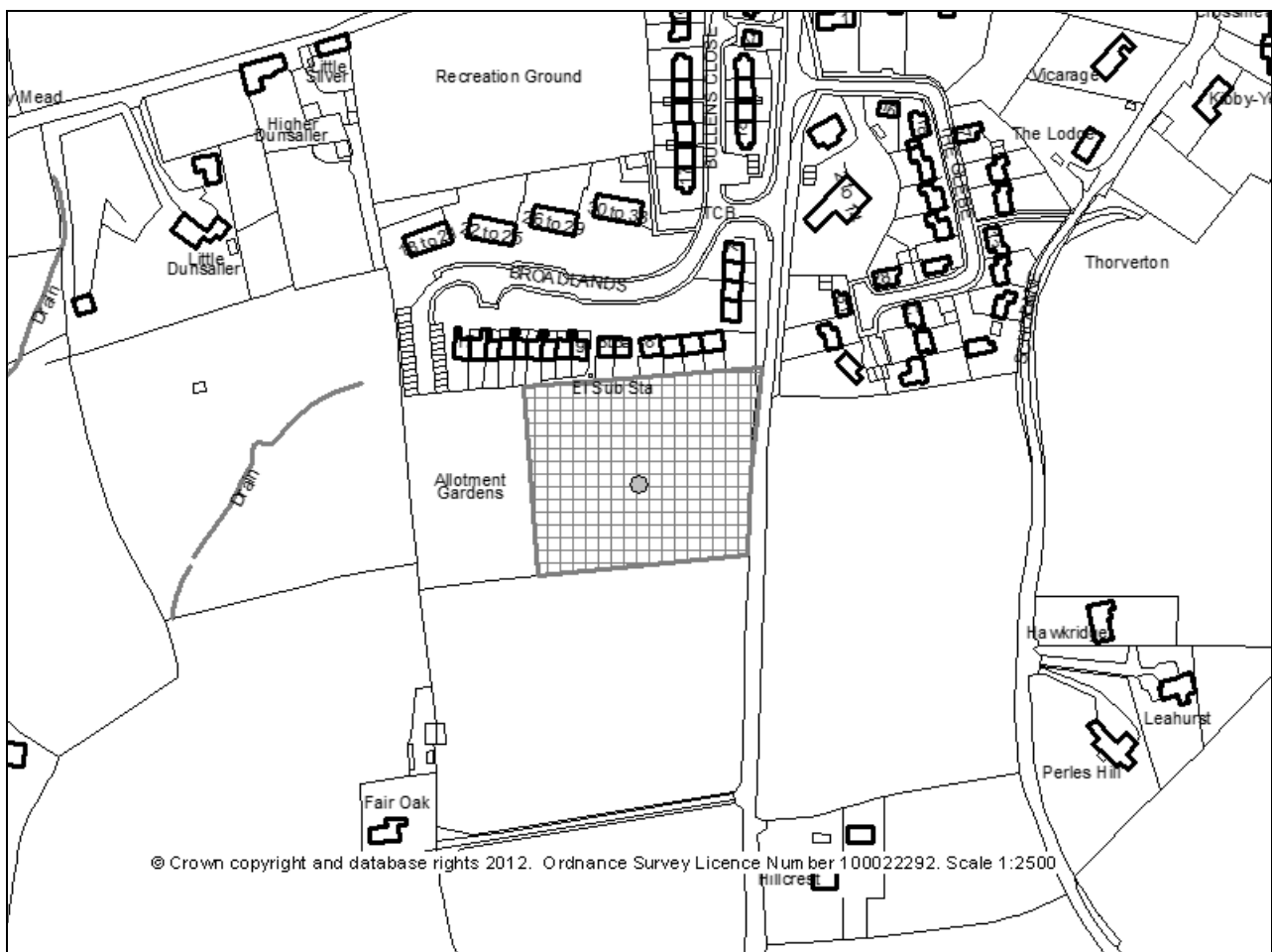
Grid Ref: 292294 : 101802

Applicant: Mr J Weir

Location: Land at NGR 292294 101802 (South of Broadlands)  
Thorverton  
Devon

Proposal: Outline for the erection of up to 16 dwellings with associated access, landscaping and other ancillary development

Date Valid: 30th May 2017



## **RECOMMENDATION**

Subject to the signing of a S106 agreement to secure the following:  
£7994.00 public open space contribution; £9975.00 toward transport to secondary school; 30% affordable homes; the receipt of revised drainage plan and conditions, permission be granted

## **PROPOSED DEVELOPMENT**

The site is a green field site which measures approximately 0.68 hectares and is located to the south of Broadlands at the edge of the existing settlement boundary. It is currently used for agricultural purposes.

The site is located on Grade 1 quality agricultural land, classified as the best and most versatile agricultural land. It is located in Flood Zone 1, classified as land with the lowest probability of flooding at 1 in 1000 annual probability of sea or river flooding.

A number of residential properties are located to the north of the site (Bullen Close) with allotment land situated directly to the west, an unnamed road to the east and agricultural fields located to the south. Thorverton Village centre is located approximately 200m to the north east of the site.

This application seeks outline consent for the erection of up to 16 dwellings with associated parking and gardens. All matters are reserved for future consideration, other than the point of access which is to be determined as part of this application.

The proposed access is to be located reasonably centrally in the site frontage with the village road. Part of the works in the location of the proposed access facilitates the widening of the village road in the location of the proposed access to some 4.1m. To the north of the site the existing carriageway width will be maintained at approximately 3.5m.

In addition, the plans indicate that the applicant proposed a 1.8m wide footway in a southerly direction from the junction with Bullens Close, along the village road towards and into the proposed access

It is also to create a dropped kerb for an existing agricultural access into the field opposite and the relocation of the 30 mph speed limit to the south of the proposed access point.

The Design and Access Statement proposes 30% affordable housing. It is expected that the new properties will be two storeys high and of the local architectural style. The proposed development will be solely for residential use and will comprise of a mix of residential units. The indicative mix of residential units has been informed by the estimated market requirement for the size of homes based on the Exeter Strategic Housing Market Assessment, and is broken down as follows:

- 2 no 1 bed apartments
- 6 no 2 bed dwellings
- 4 no 3 bed dwellings
- 4 no 4 bed dwellings

The illustrative layout of the scheme reflects the sites rural development context, where the new dwellings are organised around a rural courtyard. The illustrative scheme provides a site development density of 26.47 dph. Analysis of the existing adjacent development demonstrates that these proposals provide a scheme at a lower density than the existing residential areas to the north and north east of the Site.

The site is within the development boundary of Thorverton, but not within the Conservation Area.

## **APPLICANT'S SUPPORTING INFORMATION**

See submitted:-

Completed application form and accompanying plans/drawings

Design and Access Statement

Arboricultural Impact Assessment and Preliminary Arboricultural Method Statement

Ecology/Wildlife Survey

Archaeological Desk Based Assessment

Preliminary Geotechnical and Contamination Assessment Report

Travel/Transport Assessment

Utilities Technical Note

## **PLANNING HISTORY**

None

## **DEVELOPMENT PLAN POLICIES**

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

COR1 - Sustainable Communities

COR2 - Local Distinctiveness

COR3 - Meeting Housing Needs

COR5 - Climate Change

COR8 - Infrastructure Provision

COR9 - Access

COR10 - Strategic Transport Networks

COR11 - Flooding

COR12 - Development Focus

COR18 - Countryside

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

AL/DE/3 - Affordable Housing Site Target

AL/IN/2 - Development Without Community Infrastructure Levy

AL/IN/3 - Public Open Space

AL/IN/4 - Green Infrastructure

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

DM15 - Dwelling sizes

## **CONSULTATIONS**

**Waste and Transport Manager** - Consultation Date: Thu 15 Jun 2017

**DEVELOPMENT SERVICES MANAGER (PROPERTY SERVICES)** - Consultation Date: Thu 15 Jun 2017

**THORVERTON PARISH COUNCIL** - Comment Date: 12th July 2017 - Thorverton Parish Council objects on the following grounds:

Number of dwellings and car parking spaces

The land is allocated for residential development under policy TH1 in the emerging Local Plan due for adoption in early 2018. As this policy is not yet adopted it carries limited weight in decision making by the

PA. The site is allocated for 12 dwellings with 30% affordable housing. This application is for 16 dwellings with no affordable housing units and 27 parking spaces. This number of parking spaces is under the minimum requirement of 1.7 car spaces per dwelling which should read at least 27.2 spaces. The Parish Council would suggest that the application be limited to a maximum of 14 dwellings, with 5 affordable units, and 2 parking spaces per dwelling as there is no scope at all for additional car parking on the surrounding roads. The argument for a maximum of 14 dwellings is outlined in the Design and Access Statement submitted as part of the overall application using the calculation  $20 \times 0.68 = 13.6$  dwellings maximum. Refer to note 6.12 in the Design and Access Statement.

There are 1.7 car parking spaces allowed per dwelling which the Parish Council considers is insufficient due to the nature of the rural community. People live in such a community for a better way of life rather than because it is near to work. Very often there are two cars, or more, per household and the occupants travel in different directions at different times of the day. These days there are a lot of self-employed people who, out of necessity, have large vans from which they conduct their business and this causes even more parking problems. The bus service cannot be relied upon as it may not last, given the cuts to services, and so should be given limited weighting when discussing sustainable travel.

This community already struggles with car parking throughout the village. Car parking along the existing access roads opposite The Glebe and the Baptist Chapel cause problems with traffic movements and there have recently been complaints from residents about this which have involved the Police. There are also car parking issues around the Broadlands estate area due to the lack of car parking there. This new development will add to the existing issues.

#### Drainage

The drainage plan submitted shows two options for rainwater/surface water run-off. Option one is for rainwater to go into an on-site soakaway. Option two is to direct it into a storm water system in Broadlands leading to a ditch in fields to the West of the site. The applicant is requesting that option one be approved unless percolation tests show that it is not acceptable. Given that local residents of The Glebe have already alerted the Parish Council to run-off issues from the site, through their gardens and onward to School Lane, the Parish Council requests that option two should be required in the determination.

#### Affordable Housing

The application form does not indicate any affordable housing and so this matter needs to be clarified.

#### Road Network and Pedestrian Safety

In order to get to the village centre along the main road from this site pedestrians would need to walk on the main road in places due to there being no continuous footpath. One such place is Bullen Hill where the road narrows to a single lane, on a blind corner, and walking on such a road causes health and safety issues for children and adults alike. A large number of buses, delivery vans, and agricultural vehicles use this same route daily to gain access to surrounding farms and increasing pedestrian use along this road without a continuous footpath would lead to inflated safety risks.

The Transport Statement evidences a total lack of local knowledge and understanding regarding the local traffic situation and confirms that a survey of traffic and pedestrian movement has not been carried out. Construction traffic will have a major detrimental impact on the narrow main village street, and on village traffic in general, and will cause congestion and possible structural damage to the very old cob and stone built houses along this route most of which are listed buildings of which the Conservation Officer should be made aware. The Parish Council requests that a detailed dilapidation survey of the buildings in question be carried out prior to any work commencing.

The Transport Statement, item 3.10, states that 'the unnamed road on the Eastern boundary of the site runs South and connects with Dunsford Hill. This is incorrect, as a site visit would have confirmed, as there is no public road connecting the unnamed road in question to Dunsford Hill. The unnamed road to the South of the site is a very narrow lane, with blind corners and length restrictions, and is not suitable for the additional traffic that this site would bring. It should not, therefore, be included within any travel plans.

The Transport Statement, item 3.12, states that the road width from Broadlands to the Baptist Church is 4.8m wide. Item 5.6 on the same Statement, together with item 4.14 on the Design and Access Statement, states that to provide suitable access the road frontage needs to be 4.8m wide in accordance with required standards. Drawing 01Rev C Site Access and Footway shows the new road frontage as 3.5m wide which is not in accordance with the Transport Statement. As a result, if left unchanged, the narrow width will cause considerable congestion to traffic along the Eastern boundary and also for emerging traffic from the new development.

The Parish Council requests that any building be restricted to a two storey height.

The Parish Council requests that the layout and scale of the site are not reserved.

The site plan is not part of the determination and so local people will not understand that the layout

suggested is subject to change. More clarity is required on this matter.

The 'unnamed road' is known locally as Berrysbridge Road. The Parish Council requests that this road is named, as soon as possible, so as to provide clarity for all.

#### **LEAD LOCAL FLOOD AUTHORITY - Comment Date: 4th July 2017**

At this stage, we have no in-principle objections to the above planning application, from a surface water drainage perspective, assuming that the following pre-commencement planning conditions are imposed on any approved permission:

No part of the development hereby permitted shall be commenced until a programme of percolation tests has been carried out in accordance with BRE Digest 365 Soakaway Design (2016), and the results approved in writing by the Local Planning Authority, in consultation with Devon County Councils the Lead Local Flood Authority. A representative number of tests should be conducted to provide adequate coverage of the site, with particular focus placed on the locations and depths of the proposed infiltration devices.

Reason: To ensure that surface water from the development is discharged as high up the drainage hierarchy as is feasible.

No part of the development hereby permitted shall be commenced until the detailed design of the proposed permanent surface water drainage management system has been submitted to, and approved in writing by, the Local Planning Authority, in consultation with Devon County Council as the Lead Local Flood Authority. The design of this permanent surface water drainage management system will be informed by the programme of approved BRE Digest 365 Soakaway Design (2016) percolation tests and in accordance with the principles set out in the [Document Name] (Report Ref. [Document Reference], Rev. [Document Revision], dated [Document Date]).

Reason: To ensure that surface water runoff from the development is discharged as high up the drainage hierarchy as is feasible, and is managed in accordance with the principles of sustainable drainage systems.

Advice: Refer to Devon County Council's Sustainable Drainage Guidance.

No part of the development hereby permitted shall be commenced until the full details of the adoption and maintenance arrangements for the proposed permanent surface water drainage management system have been submitted to, and approved in writing by, the Local Planning Authority, in consultation with Devon County Council as the Lead Local Flood Authority.

Reason: To ensure that the development's permanent surface water drainage management systems will remain fully operational throughout the lifetime of the development.

No part of the development hereby permitted shall be commenced until the detailed design of the proposed surface water drainage management system which will serve the development site for the full period of its construction has been submitted to, and approved in writing by, the Local Planning Authority, in consultation with Devon County Council as the Lead Local Flood Authority. This temporary surface water drainage management system must satisfactorily address both the rates and volumes, and quality, of the surface water runoff from the construction site.

Reason: To ensure that surface water runoff from the construction site is appropriately managed so as to not increase the flood risk, or pose water quality issues, to the surrounding area.

Advice: Refer to Devon County Council's Sustainable Drainage Guidance.

Observations:

The applicant has provided additional information in relation to the surface water drainage aspects of the above planning application, in an e-mail dated 28/06/2017, for which I am grateful. The revised drawing and associated documents are of an acceptable standard. The documents are as follows;

Drawing; PDL-001, Rev.; B, 28/06/2017

0518 Thorverton CIRIA C753 - LTS Volume Calculation, 28/06/2017

0518-SW-04-C Attenuation Model (2yr+40%), 28/06/2017

0518-SW-04-C Attenuation Model (30yr+40%), 28/06/2017

0518-SW-04-C Attenuation Model (100yr+40%), 28/06/2017

If not already done so, these additional documents received via email from the applicant on the 28/06/2017 must be submitted to the Local Planning Authority for approval.

Additionally, the applicant should also note that in accordance with the SuDS Management Train, surface water should be managed at source in the first instance. The applicant will therefore be required to explore the use of a variety of above-ground source control components at detailed design across the whole site to avoid managing all of the surface water from the proposed development at one concentrated point (e.g. a single attenuation pond). Examples of these source control components could include permeable paving (which could be underdrained), formalised tree pits or other bioretention features such as rain gardens, as well as green roofs, swales and filter drains.



**FORWARD PLANNING** - Comment Date: 29th June 2017

This one is a proposal for development at Thorverton. It's part of the Local Plan Review Proposed submission, incorporating proposed modifications, although it hasn't been examined yet I don't believe there were any objections, the proposed policy is on p.149 of the proposed modifications document. The policy is for 12 dwellings, 30% affordable with other criterion included.

The principal of the development I do not have objection to given it is proposed in the Local Plan Review however it obviously it differs from the proposed policy. This will need to be weighed up along with the fact that it is not supported by policy in the existing plan.

**DEVON COUNTY EDUCATION** - Comment Date: 26th June 2017 - Regarding the above planning application, Devon County Council would need to request an education contribution to mitigate its impact.

The proposed 16 family-type dwellings will generate an additional 4 primary pupils and 2.4 secondary pupils.

There is currently capacity at the nearest primary and secondary school for the number of pupils likely to be generated by the proposed development and therefore a contribution towards education infrastructure would not be sought for this development. Devon County Council will however seek a contribution towards secondary school transport due to the proposed development site being further than 2.25 miles from Thorverton to QE Academy. The costs required are as follows: -

3.00 secondary pupil

£3.50 per day x 3 pupil x 190 academic days x 5 years = £9,975

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** - Comment Date: 23rd June 2017 - Previously undertaken archaeological investigations on this site have demonstrated that the archaeological potential of the site is low and that the scale and situation of this development will have any impact upon any known heritage assets. The Historic Environment Team has no comments to make on this planning application

**NATURAL ENGLAND** - Comment Date: 23rd June 2017 - no comment. Natural England has not assessed this application for impacts on protected species. Natural England has published Standing Advice which you can use to assess impacts on protected species or you may wish to consult your own ecology services for advice.

The lack of comment from Natural England does not imply that there are no impacts on the natural environment, but only that the application is not likely to result in significant impacts on statutory designated nature conservation sites or landscapes. It is for the local planning authority to determine whether or not this application is consistent with national and local policies on the natural environment. Other bodies and individuals may be able to provide information and advice on the environmental value of this site and the impacts of the proposal to assist the decision making process. We advise LPAs to obtain specialist ecological or other environmental advice when determining the environmental impacts of development.

We recommend referring to our SSSI Impact Risk Zones (available on Magic and as a downloadable dataset) prior to consultation with Natural England. Further guidance on when to consult Natural England on planning and development proposals is available on gov.uk at <https://www.gov.uk/guidance/local-planning-authorities-get-environmental-advice>

**DEVON, CORNWALL & DORSET POLICE** - Comment Date: 20th June 2017

It is not possible to comment in any detail on the available illustrative master plan as it does not reveal any features that would specifically be of concern to the police. All relevant planning applications should demonstrate, generally in the Design and Access Statement, the following principles of Crime Prevention through Environmental Design (CPTED) and how they have been considered and incorporated into the design and layout of all new developments. This provides reassurance and will ensure a consistent level of

security throughout and opportunities for crime, the fear of crime, ASB and conflict are minimised:-

- o Access and movement - Places with well-defined and well used routes with spaces and entrances that provide for convenient movement without compromising security.
- o Structure - Places that are structured so that different uses do not cause conflict.
- o Surveillance - Places where all publicly accessible spaces are overlooked.
- o Ownership - Places that promote a sense of ownership, respect, territorial responsibility and community.
- o Physical protection - Places that include necessary, well-designed security features.
- o Activity - Places where the level of human activity is appropriate to the location and creates a reduced risk of crime and a sense of safety at all times.
- o Management and maintenance - Places that are designed with management and maintenance in mind, to discourage crime.

Please note the following information, initial advice and recommendations from a designing out crime, fear of crime, antisocial behaviour (ASB) and conflict perspective:-

Care is required when providing communal parking areas as experience shows they can become unofficial play parks and targets for crime, vandalism and anti-social behaviour, forcing residents to park on the street. Car parking areas should be well illuminated to provide the potential for natural surveillance during hours of darkness.

If existing hedgerow is likely to comprise new rear garden boundaries, as appears will be the case, then it must be fit for purpose. They should be of sufficient height and depth to provide both a consistent and effective defensive boundary as soon as residents move in. If additional planting will be required to achieve this then temporary fencing may be required until such planting has matured. Any hedge must be of a type which does not undergo radical seasonal change which would affect its security function.

I would also advise for all plots that private front gardens are suitably and clearly defined. Open frontage, particularly but not exclusively, on corner plots, can for many reasons frequently lead to community conflict, for example, desire lines for pedestrians and cyclists are created, dog fouling, ball games and anti-social behaviour.

**HIGHWAY AUTHORITY** - Comment Date: 13th July 2017 - The Highway Authority has no objection in principle subject to the widening of the carriageway which will need to be secured through the appropriate legal agreement under the highways act and drawing T097/01/C should be completed prior to commencement on site to cater for swept path of construction vehicles and provision of appropriate visibility. The internal layout is taken as indicative and there will need to be changes to accommodate the refuse vehicle turning circles and limits of adoption and materials will need to be determined. Therefore the following conditions are requested to be imposed

Recommendation:

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

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

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

2. 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

REASON: To ensure that adequate on site facilities are available for all traffic attracted to the site during the construction period, in the interest of the safety of all users of the adjoining public highway and to protect the

amenities of the adjoining residents

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

- (a) the timetable of the works;
- (b) daily hours of construction;
- (c) any road closure;
- (d) hours during which delivery and construction traffic will travel to and from the site, with such vehicular movements being restricted to between 8:00am and 6pm Mondays to Fridays inc.; 9.00am to 1.00pm Saturdays, and no such vehicular movements taking place on Sundays and Bank/Public Holidays unless agreed by the planning Authority in advance;
- (e) the number and sizes of vehicles visiting the site in connection with the development and the frequency of their visits;
- (f) the compound/location where all building materials, finished or unfinished products, parts, crates, packing materials and waste will be stored during the demolition and construction phases;
- (g) areas on-site where delivery vehicles and construction traffic will load or unload building materials, finished or unfinished products, parts, crates, packing materials and waste with confirmation that no construction traffic or delivery vehicles will park on the County highway for loading or unloading purposes, unless prior written agreement has been given by the Local Planning Authority;
- (h) hours during which no construction traffic will be present at the site;
- (i) the means of enclosure of the site during construction works; and
- (j) details of proposals to promote car sharing amongst construction staff in order to limit construction staff vehicles parking off-site
- (k) details of wheel washing facilities and obligations
- (l) The proposed route of all construction traffic exceeding 7.5 tonnes.
- (m) Details of the amount and location of construction worker parking.
- (n) Photographic evidence of the condition of adjacent public highway prior to commencement of any work;

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

REASON: To protect water quality and minimise flood risk in accordance with policy Flood Management act

5. Off-Site Highway Works No development shall take place on site until the off-site highway works as shown on drawing no. 15T097/01C have been constructed and made available for use.

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

**ENVIRONMENTAL HEALTH** Comment Date: 19th June 2017 -

Contaminated land - No objections

Air quality - No objections

Environmental permitting - N/a

Drainage - No objection

Noise and other nuisances - No objections

Housing standards - No comment

Licensing - No comments

Food hygiene - N/a

Private water supplies - N/a

Health and safety - No comments

**ENVIRONMENT AGENCY** - Comment Date: Operational development less than 1ha within Flood Zone 1.

No consultation required.

## REPRESENTATIONS

19 letters of objection received raising the following issues;

1. The Berrybridge route to the A377, a narrow unnamed lane between Thorverton and Berrybridge, is tricky for pedestrians and cars alike and wholly unsuited to heavy construction vehicles. Albion Cottage on its blind 90 degree bend has already been damaged on several occasions.
2. This development seems to be curiously planned, given that it is at the most inconvenient and inaccessible end of the village.
3. The 'unnamed lane' down to Berrysbridge is very narrow with poor visibility and few passing places and at the bottom there is a sharp, blind corner which even cars find difficult to negotiate, so one wonders how construction vehicles would manage. Inevitably the occupants of the 16 houses would use this route as a shortcut to Exeter via Upton Pyne; the lane with its dangerous corner is simply not suitable for more traffic.
4. Currently the lane is used by walkers, riders and, in particular, cyclists - as well as Berrysbridge children. If there was a significant increase in traffic then these activities would simply become too dangerous.
5. The unmade track across to the road connecting Thorverton with Brampford Speke (continuation of School Lane) is unsuitable for vehicles of any sort except tractors.
6. Bullen Street in the village is another narrow road, already very busy with traffic going in both directions. When farm vehicles use it at certain times of the year it becomes difficult to navigate and dangerous. The construction vehicles needed to build 16 houses would cause endless jams in this already much-used road. With the doctors' surgery and the school located in the heart of the village there are a lot of pedestrians who like/need to use the road and an increase in traffic would cause noise, pollution, difficulty for the residents of Bullen Street who need to park and danger for pedestrians.
7. Now that the development at Barton Meadows at the eastern end of the village is nearing completion, it would seem a far better option to build new housing adjacent to this. The road is wider, visibility far better, access into the village less problematic, and the route out to the A396 and Exeter and Tiverton beyond much faster and more efficient. It would appear not to have any of the safety issues connected with the site next to Broadlands.
8. The water supply to our home is piped through this field and the Church Commissioners entered into an agreement in 1973 for the laying and maintaining of a water supply pipe, and we note this is not detailed on the existing combined services drawing & we would expect the original agreement to remain in force in perpetuity. We note that there are no submission from the utility companies that they are able to provide the extra services required to service these additional 16 homes and prior to the Court Barton development coming on stream.
9. Since we have lived in Berrybridge, the road sign to Upton Pyne on the A377 has changed from Upton Pyne, Brampford Speke, Thorverton to the current sign omitting Thorverton. The highways authorities deemed this section of road unsuitable for through traffic onto Thorverton a decade ago.
10. One of the other access roads to Thorverton, Hulke Lane, by the old railway station, has been closed for a number of years because of subsidence. The bridge, for which Berrysbridge is named is only small and we wonder how much traffic this bridge can cope with before it too could be damaged with heavy construction traffic & could the council afford to repair this bridge in a timely manner. To say nothing of the disruption to all including the farming community traffic with large vehicles & trailers & this would result in additional traffic on other single track roads such as School Lane.
11. The Archaeological Desk Based Assessment is inadequate, and that it has been superseded by more up-to-date findings on the ground. A highly professional archaeological survey of land some 400 yards due north of the proposed development site appears in "Results of an Archaeological Trench Evaluation" of "Land off Dark Lane, Thorverton Devon (Centred on NGR SS 9235 0216)" Report No: ACD 1634/1/0 July 2017 by AC Archaeology. There are significant archaeological remains not far from the proposed development site. Those nearby remains undermine the validity of CgMs Consulting's Desk Based Assessment. Things will not be found if one takes care not to look too closely. I wonder about the objectivity of a consulting company whose funding comes from the property industry. Such a relationship suggests a vested interest in not finding anything that might impede the commissioning industry's activity.
12. The Travel/Transport Assessment does not take into account the following:  
The new residents of the development will soon come to the conclusion that the default access route

to Exeter is the southbound "unnamed road" to the east. This is because trying to access the A396 Tiverton Road through the centre of Thorverton is already slow and difficult due to the narrow streets and parked cars. The "unnamed road" access to Exeter via Berrysbridge and Upton Pyne is already a peak time "rat run" and the development will add greatly to that traffic flow. Our access to the "unnamed road" is already fraught with difficulty as the road is reasonably straight southbound from the entrance of the proposed development to our access point. The speed limit is, and will continue under these proposals, to be 60mph and drivers regularly exceed the speed at which they could safely stop for a car edging onto the road. By increasing the traffic flow the chances of a vehicle being hit whilst leaving our drive are greatly increased. The whole of the "unnamed road" from the development site to Berrysbridge and beyond is single track. The section from the development site to Berrysbridge (Albany Cottage) has a couple of passing places, one of which is our access to the road. Currently there are frequent hold-ups of traffic as multiple flows of vehicles attempt to pass using our entrance as a passing point. This will only get worse with an increased traffic flow and potentially cause an obstruction for vehicles attempting to access the road from our drive.

13. The credibility of the Transport Statement is in our opinion very low. As other objectors have pointed out there is no connection to Dunsford Hill and the statement is incorrect. The unnamed road runs through Berrysbridge to Upton Pyne and then via the A377 towards Exeter. It is currently designated unsuitable for long vehicles, is single track with passing places and has a number of 90 degree bends. As a typical Devon lane it is only suitable for very light traffic.
14. The unnamed track connecting Dunshill Rd to Berrysbridge is a private dirt track with no right of way which is not neither suitable for construction vehicles.
15. Does this proposal not warrant a full environmental impact assessment (EIA)? There will be a loss of wildlife and habitat, there will be noise and light pollution, there will be a visual impact, the traffic will increase and surface water run-off will affect Berrysbridge.
16. If the decision is made for planning to go ahead, my family and I demand assurances from the council that neither our home nor our children will be impacted on by your vehicles.
17. Thorverton has recently had 20 dwellings constructed and they are still being constructed and of yet are not habitable.
18. Can you please clarify how the development in Thorverton is already undergoing compares to other designated villages?
19. Has any analysis been undertaken to account how existing amenities such as the pre-school, school and doctors will cope with the increasing number of people and families moving into the village?
20. This site is unsuitable for the addition of this number of houses.
21. Visibility for those exiting from the new site would be poor and there is already an issue for existing residents exiting on to Berrisbridge Road.
22. Those living in Broadlands, particularly on the south side, would suffer the disruption of building works and then housing where there was previously a field. The allotments on the western boundary would have a problem with dust and possibly harmful residues being blown over during building work.
23. There are negative environmental issues including removal of hedging and the loss of the field.
24. I do not object to additional housing for the village in itself, but there is already a development in Silver St, with its demands on the infrastructure of the community. This should be allowed a few years to be assimilated. These two developments together are likely to add over 10% to the population of the village. After some years, if a second development should be required, then an extension to that at Silver St with its ready access to the main road would be a far more appropriate location.
25. Any such development should provide for affordable housing for which the current proposal in Berrisbridge Road does not seem to allow.
26. This application is for "Outline planning approval with all matters reserved except for Access". This application is considered to be a "Major" project and this approach effectively (cynically?) deprives interested parties access to the very detail needed for them to make informed comments. Can the LPA remove from Reserved Matters all those items that will directly interest the community, such as landscaping, scale and appearance etc?
27. Is it possible to publish and share the outcomes of the pre-app advice?
28. This application has, been very selective in how these policies are considered and applied. Can the Local Planning Authority please agree with the applicant and publish a suitable table of %age weightings they wish to apply to the various policies relied upon in this application and to score them accordingly?

29. The application form seems to suggest that there is no affordable housing. Is this an Exception Site? Has a local needs assessment been conducted? This contradicts what was stated at the public meeting and appears to fly in the face of current UK Government thinking re legislating to increase the supply of affordable housing. Many in need of affordable housing in this community were unfortunately unable to consider the lowest cost housing yet to be completed in the applicant's Court Barton Development. It is therefore now even more important than ever that the LPA review this aspect and consider informing their decision with the results of a newly commissioned local housing needs assessment.
30. TH1 suggests 12 units +30% affordable, this application, - 16 units all at market rate. With 16 units the density is just too high and with most details in "Reserved Matters" clarity is sort on how this density is to be achieved.
31. It is not apparent how the number of parking spaces are to be accommodated on site without risking the inappropriate addition of extra stories to the properties (or similar).
32. Concerned that the stated preferred option that relies on infiltration and soakaways will just not be suitable as the soil is not only heavy clay, but when it rains surface water already drains from the site and pools on the "unnamed road" and then continues down the hill, into properties and gardens located in the Glebe and hence right down into School Lane which is wet even in the height of Summer. Nearest exiting storm drain may be a better solution?
33. The applicant has relied on the results of a desk based assessment (by CMRG) in order to justify choosing to ignore the contents of MDDC Conservation Area Appraisal and Management Plan for Thorverton 2015 and MDDC Local Plan Review Policy TH1 both of which clearly state that there is the remains of a substantial ancient enclosure in the adjacent field within 100 meters of the application boundary.
34. Many assertions in the Travel Transport Assessment are either based on incorrect information or reliance on inappropriate national statistics as to make the document unreliable as a "document of record" by either the LPA or the applicant. Please withdraw until the document has been corrected. There is no safe contiguous pavement between the proposed site and the centre of the village and Dunsford Hill is located in school lane and has no bearing on the application.
35. The site is Grade I agricultural land and as such is an asset fast diminishing which we can ill afford to lose. It has been used by the local population for recreation.
36. I live in sheltered housing because I am seriously ill and would prefer to live out my final years in peace without added noise, pollution and car headlights.
37. There are more suitable sites elsewhere.
38. Not enough car parking. Overspill will resort to parking in Broadlands where there is already a problem with overcrowding. Access by emergency services will be impossible and therefore lives will be at risk.
39. Has anyone actually measured the traffic flow at present?
40. The proposed restriction of the land from 60mph to 30 mph will have little/no effect and the sign itself will be unsightly.
41. Visitors to Devon come to see quaint villages and rolling green countryside. If housing development progresses at the rate it is at present then in 50-100 years' time there will be neither.
42. Is this development outside the settlement limit for the village?
43. Consideration should be given to gifting an area of land within this green field or a suitable accessible land within the parish to meet the wishes of the parishioners in a recent survey carried out by the Parish council to create a new cemetery.
44. Thorverton is not a sustainable location due to limited bus routes and impractical walking/cycling routes to anything but the most basic amenities. The current low proportion of bus travel is more indicative of the quality of public transport service than of any indication that more people need to be moved to the village to increase bus use. The summary of the bus service in the application is incorrect. There is no bus service on Sundays
45. Thorverton has fulfilled it quota for "limited development".
46. The TRICS calculation is based on a national average but should be rerun to reflect the more local level and the average of 0.547 per dwelling is significantly higher in Thorverton.
47. In light of the proximity to the River Exe and the existing issues the village currently faces regarding surface water run-off, a review of flood risk should be carried out.
48. Concern in regard to the living conditions of the occupiers of the properties in Broadlands.
49. Dispute the density calculation and make it 23.53 rather than 26.47 dph
50. Application should not be outline, but rather full.

51. Bus service is not conducive to commuting.
52. Many residents are retired and not up to regular cycling and great distances.

## **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

The main determining factors in this application are:

- 1) **Adopted and emerging planning policy and 5 year housing supply;**
- 2) **Impact on neighbours and the living conditions of proposed residents;**
- 3) **Impact on character and appearance of the area;**
- 4) **Highways and highway safety ;**
- 5) **Loss of agricultural land**
- 6) **Flooding and drainage**
- 7) **Ecology;**
- 8) **Archaeology**
- 9) **Local finance considerations;**
- 10) **S106 Obligations;**
- 11) **Other matters raised by interested parties**
- 12) **Sustainable development balance.**

### **1 Adopted and emerging planning policy and 5 year housing supply**

The Government's commitment to a "plan led" planning system is apparent throughout the NPPF. Paragraph 2 acknowledges the statutory presumption in favour of the development plan in section 38(6) of the Planning and Compulsory Purchase Act 2004, and the status of the NPPF as another material consideration.

The NPPF states that full weight may be given to relevant policies adopted since 2004 (and in accordance with the Planning and Compulsory Purchase Act 2004) even if there is a limited degree of conflict with the NPPF. The policies described in the following paragraphs have all been adopted since 2004, unless otherwise stated.

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

The site is located outside but adjacent to the currently adopted settlement limit of Thorverton and therefore in open countryside for planning purposes. Policy COR18 seeks to control development outside defined settlement limits to appropriate rural uses, excluding new market housing. The development is on agricultural land (see section 5 below - loss of agricultural land) and at present the whole of the site lies in the countryside. The site is not allocated as part of the adopted Local Plan and is not being proposed for 100% affordable housing. The proposal is therefore considered to be contrary to policy COR18 of Mid Devon's adopted development plan

However, at appeal in 2016 the Authority was found not to be able to demonstrate a 5 year housing land supply and in the interim, that position has not changed substantially. The NPPF advises that where a five year land supply of deliverable housing sites cannot be demonstrated, policies on housing supply should not be considered up to date. This includes settlement limits identifying areas which are countryside and those which are within defined settlements.

Paragraph 14 of the NPPF states that where development plan policies are considered to be out of date, planning permission should be granted unless adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the NPPF as a whole OR specific policies in the NPPF indicate development should be restricted. Housing applications need therefore to be considered in the context of sustainable development, unless specific policies indicate development should be

restricted.

Policy COR18 is directly relevant to the supply of housing in the District and is now considered to be out of date in this regard. This does not mean that Mid Devon's policies must be cast aside, but the weight given to them is proportionate to their consistency with the National Planning Policy Framework (NPPF).

With regard to the Council's emerging policy (Local Plan Review), the strategy for development focus will be at Tiverton, Cullompton and Cridton as identified in policy S1 and S2. Emerging Policy S13 allocates Thorverton as a village suitable for limited development. That development will be limited to proposals within their defined settlement limits and to allocations for development including small scale housing. Thorverton is considered to be appropriate for a limited level of development, based on its physical characteristics, and the availability of the following three essential services identified: educational facility, convenience store and transport service.

To this end emerging Policy TH1 allocates all of this application site as a residential allocation for 12 dwellings with 30% affordable housing, archaeological investigation and appropriate mitigation, road widening and provision of footpath along site frontage extending northwards to connect with the existing network at the entrance to the Broadlands estate.

The Local Plan Review was submitted to the Planning Inspectorate at the end of March 2017 and has not been subject to examination. Accordingly only limited weight can be attached to the policies and proposals, which may be subject to change.

The site does not sit within a Neighbourhood Plan area.

Therefore, whilst the application site is currently outside any settlement limits, in the absence of a currently demonstrated 5 year supply of housing land, the policies which define settlement limits on an adopted plan should not be considered up to date. For decision-making this means, by reference to the fourth bullet point of paragraph 14 of the Framework, granting permission unless any adverse effects of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. This balance is undertaken in Section 10 of this report.

The proposal must not adversely affect the safe functioning of the highway and provides appropriate parking facilities in line with policy COR9 of CS. As the point of access is not reserved for future consideration, the application must be considered against this policy. This is done in section 4 below.

Other relevant policies include Policy DM14 (design of housing), DM15 (dwelling sizes) and DM8 (parking). This detail will be submitted as part of a reserved matters application.

## **2) Impact on neighbours and the living conditions of proposed residents**

Paragraph 17 of the NPPF indicates that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. This is reflected in policy DM14 of the Local Plan 3 Development Management Policies which sets out that new development should respect the privacy and amenity of neighbouring residents.

The illustrative layout indicates that some of the proposed dwellings would be adjacent to properties in Broadlands to the north. The juxtaposition of any windows, the rooms they serve and the specific detail of proposed landscaping along this boundary is best assessed at the reserved matters stage.

Overall, it is considered that it is possible for the reserved matters application to comply with policy DM2 of LP3 DMP with regard to allowing sufficient amenity for neighbouring users.

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



DM14 looks for dwellings with suitably sized rooms and overall floorspace which allows for adequate storage and movement within the building together with external space for recycling, refuse and cycle storage. DM15 governs the size of proposed dwellings. As this application is outline in nature, this will be the subject of a future reserved matters or separate full planning application. In any case, this policy has been superseded by the technical housing standards.

### **3) Impact on character and appearance of the area**

The site is not within a protected landscape and is some distance from the Conservation Area so as to not affect its setting.

From the south, the proposed development will act as a gateway to the village. As such, the design of the proposed development is important and should act as a transitional site between the rural character of the surrounding countryside and the more urban nature of the village itself.

The applicant indicates that Broadlands is roughly 29.6 dph and that the proposed development density is some 26.47 dph. Whilst the proposed number of possible dwellings on the site (the application seeks consent for up to 16 dwellings) is potentially more (4 dwellings) than that proposed in emerging Policy TH1, this density will serve to provide a comfortable transition between both new and old developments. The reserved matters application will need to demonstrate that 16 dwellings can be comfortably accommodated on the site while without significant harm to the character of the area or the residential amenity of occupiers of neighbouring properties.

It should be noted that some removal or replanting of perhaps some 85m of the existing hedgerow along the site frontage may be required. This will have impact on the rural character and appearance of the village road. Whether this impact is detrimental will be reliant upon the proposed landscaping, which is the subject of a reserved matters application. It is possible that a native hedgerow could be planted behind the required visibility splay to assist with the visual transition between the rural road boundaries and the close board fencing to Broadlands. In the event that consent is granted, the Local Planning Authority will indicate that such a landscaping feature should be expected.

### **4) Highways and highway safety**

The point of access is not reserved for future consideration. Sole access to the site is proposed to be from the village road and it is proposed that as part of the proposed development the carriageway width will be upgraded for a small part and a footway installed. Pedestrian access would also appear to be provided at the same location. The access proposals include the creation of a 5.5m metres wide access road into the site with additional 1.8m footway with visibility splays of 2.4 metres x 43 metres.

With regards to the visibility splays, the village road is currently subject to a 60mph national speed limit, which would infer a requirement for visibility splays of 4.5m x 210m. This would be in excess of the level of available provision at the site. However, it has been agreed with the Highway Authority that the speed limit of this road can be changed from 60mph to 30 mph by way of a Traffic Regulation Order following completion of the project. The proposed visibility splays will therefore be in accordance with the guidance in the Manual for Streets for a 30mph road.

As such, the Highway Authority has no objection in principle subject to the widening of the carriageway which will need to be secured through the appropriate legal agreement under the highways act and the access being carried out in accordance with that shown on the plans prior to commencement on site to cater for swept path of construction vehicles and provision of appropriate visibility.

The internal layout is taken as indicative and the Highways Authority have indicated that there will need to be changes to accommodate the refuse vehicle turning circles and limits of adoption and materials will need to be determined.

Therefore the proposed development is not contrary to paragraph 32 of the National Planning Policy Framework or Policy COR 9.

## **5) Loss of agricultural land**

Paragraph 112 of the NPPF requires that local planning authorities should take into account the economic and other benefits of the best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality. Land quality is therefore a material consideration and conservation of soil resources is a facet of sustainability, albeit the loss of insignificant amounts of best and most versatile agricultural land is unlikely to be a decisive consideration of itself. The threshold requiring consultation with Natural England is currently 20 hectares but clearly care has to be taken that multiple smaller applications do not cumulatively give rise to avoidable losses on a scale which becomes undeniably significant.

The proposal would result in the complete redevelopment of the appeal site (0.68 hectares), meaning that agricultural activities would not be able to take place in the future. As the site has been selected for allocation, it would appear that areas of poorer quality land have been considered in relation to such an allocation. But, there is no internal balancing exercise required by paragraph 112, nor is there any suggestion that planning permission should be refused if the best and most versatile land is to be lost. Rather, the loss of agricultural land is just one of the matters which has to be taken into the overall planning balance when a proposal for development is being considered.

## **6) Flooding and drainage**

The site is in flood zone 1 and indicates that the land is assessed as having a less than 1 in 1000 annual probability of river or sea flooding (<0.1%). Therefore, the risk of fluvial flooding at the site is low.

Illustrative drainage plans have been submitted with the application. Foul drainage is proposed to be to the existing SWW network which has capacity and surface water is via a SUDS system.

Whilst it is appreciated that the application is outline in nature, the Lead Local Flood Authority have no in-principle objections from a surface water drainage perspective, assuming that the pre-commencement planning conditions are imposed on any approved permission. The applicant has provided additional information in relation to the surface water drainage aspects of the above planning application, in an e-mail dated 28/06/2017. The revised drawing and associated documents are of an acceptable standard. The documents are as follows;

Drawing; PDL-001, Rev.; B, 28/06/2017

0518 Thorverton CIRIA C753 - LTS Volume Calculation, 28/06/2017

0518-SW-04-C Attenuation Model (2yr+40%), 28/06/2017

0518-SW-04-C Attenuation Model (30yr+40%), 28/06/2017

0518-SW-04-C Attenuation Model (100yr+40%), 28/06/2017

Additionally, the applicant should also note that in accordance with the SuDS Management Train, surface water should be managed at source in the first instance. The applicant will therefore be required to explore the use of a variety of above-ground source control components at detailed design across the whole site to avoid managing all of the surface water from the proposed development at one concentrated point (e.g. a single attenuation pond).

As such, the Council can be comforted that the development of the site will not adversely affect the flood risk to others contrary to policy COR11 of the Mid Devon Core Strategy and the NPPF.

## **7) Ecology**

The submitted Ecological Assessment confirms that baseline investigations have confirmed a lack of significant 'in principle' constraints to the proposed development. However, a number of habitat and species considerations have been identified. The site offers sufficient opportunities to mitigate losses and provide enhancements.

Given appropriate mitigation, there are no ecological reasons that should prevent the construction of houses. Whilst ecological losses might be insignificant, the provision of habitat and species enhancement

would be integrated into habitat creation, including landscape plantings (detailed at the reserved matters stage) that could combine native tree and shrubs with a proven value to wildlife in order to result in a net increase in biodiversity, which is in accordance with policies DM2 and DM28 of the Local Plan Part 3 (DMP).

## **8) Archaeology**

An Archaeological Assessment has been submitted with the application. It concludes that there are no designated archaeological heritage assets present within, or in close proximity to the study site such that proposed development would be considered to result in any adverse harm on such asset or the significance of their associated setting. It confirms that no known non-designated archaeological heritage assets are recorded on the study site, and concludes on the basis of current evidence that its potential to contain any unrecorded buried archaeological remains of interest is low. Accordingly, it is the applicant's view that the proposed development of this site is unlikely to have a significant archaeological impact due to the limited potential recognised and the impact of previous Medieval and Post Medieval ploughing and its use as an allotment.

The County Archaeologist agrees and indicates that previously undertaken archaeological investigations on this site have demonstrated that the archaeological potential of the site is low and that the scale and situation of this development will not have any impact upon any known heritage assets.

## **9) Local finance considerations**

With the introduction of the Localism Act 2011, the receipt of New Homes Bonus monies is a material consideration in the determination of planning applications. If New Homes Bonus is distributed across the Council Tax bands in the same way as last year, the award for each market house is estimated to be £1,028 per year, paid for a period of 6 years. The amount of New Homes Bonus that would be generated from this proposal if it were approved over a period of 6 years is therefore estimated to be £98,688. The potential receipt of these monies is a positive aspect of the proposal but the weight attributed to this consideration is no greater than the weight carried by the considerations previously discussed.

## **10) S106 Obligations**

A financial contribution towards the provision of public open space has been sought from the applicant under policy AL/IN/3 of the AIDPD.

Similarly, a request from Devon County Council for a financial contribution of £9,975 towards secondary school transport under policy AL/IN/5 has been requested.

The application would also be required to make a contribution towards on-site affordable housing under policy AL/DE/3 of the AIDPD.

## **11) Other matters raised by interested parties**

Interested parties indicate that a number of other locations within or adjacent to the village might be better suited to residential development. However, each application is determined on its own merits.

It is understood that there is a private agreement with the applicant for the laying and maintaining of a water supply pipe. This is not a planning matter.

Interested parties are concerned that utility companies are able to provide the extra services required to service these additional 16 homes and prior to the Court Barton development coming on stream. A Utility Technical Note was submitted with the application which indicates that given the extensive coverage of utilities serving the residential development of Broadlands, it is considered that there should be good opportunity for the proposed development to be serviced without incurring significant reinforcement or abnormal works, albeit this is subject to future demand and existing network capacities. The note recommends that preliminary connection enquiries are submitted to each respective utility provider. Through

this process any budget costs to supply the site, including any provisions for new infrastructure and any associated reinforcement costs, can be determined.

Interested parties ask whether the proposed development warrants a full environmental impact assessment. The proposed development does not appear in either schedule 1 or schedule 2 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (the '2017 Regulations'). An EIA is therefore not required.

The granting of planning permission does not grant/create any assurances from the Council that neither homes nor children will be impacted on by vehicles connected with the site.

Concern has been expressed as to how existing amenities will cope with the increasing number of people and families moving into the village. The Community Infrastructure Levy has not yet been adopted by the Council. Mitigation in regards to education facilities and provision of public open space have been incorporated as part of the proposed S106.

Concern has been expressed that those living in Broadlands would suffer the disruption of building works. For this reason, it is proposed to condition the working hours.

Concern has been expressed that an outline application deprives the community from the very detail needed for them to make informed comments. The planning application procedure allows for outline applications which are followed by reserved matters applications. The detail is contained in those reserved matters applications and it is possible that, where those details are not considered to be acceptable, consent is withheld at that stage. Both the outline and reserved matters stages of a planning application combined contains the information required of a full application and for an informed decision to be made.

Concern has been raised that the stated preferred option that relies on infiltration and soakaways will just not be suitable as the soil is heavy clay. A desktop study suggests that ground conditions are 'freely draining' and on this basis the primary strategy utilises infiltration drainage. Because soakaway testing has yet to be undertaken, the sizing of any features is based on a 'worst case workable' rate. Furthermore, a secondary strategy utilising on-site attenuation with off-site discharge has also been prepared.

Car parking and its layout will be a matter for future consideration. Whilst the relocated 30mph signage may be considered to be unsightly, it does already exist near the entrance to Broadlands.

Interested parties seek the gifting an area of land within this green field or a suitable accessible land within the parish to create a new cemetery. This application has been determined on its own merits and such a request is not considered to be directly relevant to the proposed application.

## **12) Sustainable development balance**

The NPPF sets a strong emphasis on the delivery of sustainable development. Fundamental to the social role is "supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations" (paragraph 7). In pursuit of sustainable development paragraph 9 notes the importance of "widening the choice of high quality homes". Paragraph 17 sets out 12 core principles which underpin both plan making and decision taking. Paragraph 47 clearly sets out the Government's aim to "boost significantly the supply of housing". The NPPF is clear that delivering sufficient housing is a key consideration for Local Authorities; however, the mix of housing types is also specifically mentioned within the NPPF (paragraph 50). Changes to the NPPF have been consulted upon consequent to the provisions of the Housing and Planning Bill, principally regarding the broadening of the definition of 'affordable housing' to include Starter Homes. Both the Regulations and the changes to the NPPF are still awaited.

It is acknowledged that the Council is presently unable to demonstrate that it has a 5 year supply of housing land and that policies relating to rural restraint are therefore out-of-date and the application needs to be assessed against the provisions of paragraph 14 of the Framework and DM1 of the Local Plan Part 3 (DMP). Paragraph 14 of the NPPF states that where development plan policies are considered to be out of

date, planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the NPPF as a whole or specific policies in the NPPF indicate development should be restricted.

The proposal would make a welcome, albeit small contribution towards increasing housing supply in Mid Devon and significant weight must be given to this. There could also be some modest benefits to the local economy, arising from construction and sales, increased revenues to the Council, and additional spending by local residents on local services and facilities. Additional affordable homes and public open space proposed as part of the scheme would also provide a modest social benefit. The site is identified for development within the Local Plan Review (draft policy TH1 for 12 dwellings).

Other matters put forward in favour of the development include an absence of harm to archaeological remains or Scheduled Monuments, ecology, flooding, drainage, visual amenity, highway safety, the living conditions of the occupiers of nearby residential properties. Nonetheless, these are mitigating factors rather than benefits and the weight to be given to them is therefore limited.

## CONDITIONS

1. No development shall begin until detailed drawings to an appropriate scale of the layout, scale and appearance of the building(s), and the landscaping of the site (hereinafter called the Reserved Matters) have been submitted to and approved in writing by the Local Planning Authority.
2. Application(s) for approval of all the Reserved Matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.
3. The development hereby permitted shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of approval of the last of the Reserved Matters which have been approved, whichever is the later.
4. The detailed drawings required to be submitted by Condition CO1 shall include the following additional information: boundary treatments, landscaping, existing site levels, finished floor levels, external lighting, materials, and surface water drainage.
5. Subject to the effect of any condition of this permission, the development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice.
6. Prior to their use on site, samples of the materials to be used for all the external surfaces of the building and retaining walls have been submitted to and approved in writing by the Local Planning Authority.
7. As part of the landscaping reserved matters, detailed drawings shall show which existing trees and hedgerows are to be retained on the site as part of the development.
8. The proposed estate road, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, road maintenance/vehicle overhang margins, embankments, visibility splays, accesses, car parking and street furniture shall be constructed and laid out in accordance with details to be approved by the Local Planning Authority in writing before their construction begins. For this purpose, plans and sections indicating, as appropriate, the design, layout, levels, gradients, materials and method of construction shall be submitted to the Local Planning Authority.
9. 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 in accordance with details that shall first have been submitted to and approved by the Local Planning Authority

10. Prior to commencement of any part of the site a Construction Management Plan shall first have been submitted to and approved in writing by the Local Planning Authority. The Construction Management Plan (CMP) shall include:
  - (a) the timetable of the works;
  - (b) daily hours of construction;
  - (c) any road closure;
  - (d) hours during which delivery and construction traffic will travel to and from the site, with such vehicular movements being restricted to between 8:00am and 6pm Mondays to Fridays inc.; 9.00am to 1.00pm Saturdays, and no such vehicular movements taking place on Sundays and Bank/Public Holidays unless agreed by the Planning Authority in advance;
  - (e) the number and sizes of vehicles visiting the site in connection with the development and the frequency of their visits;
  - (f) the compound/location where all building materials, finished or unfinished products, parts, crates, packing materials and waste will be stored during the demolition and construction phases;
  - (g) areas on-site where delivery vehicles and construction traffic will load or unload building materials, finished or unfinished products, parts, crates, packing materials and waste with confirmation that no construction traffic or delivery vehicles will park on the County highway for loading or unloading purposes, unless prior written agreement has been given by the Local Planning Authority;
  - (h) hours during which no construction traffic will be present at the site;
  - (i) the means of enclosure of the site during construction works; and
  - (j) details of proposals to promote car sharing amongst construction staff in order to limit construction staff vehicles parking off-site
  - (k) details of wheel washing facilities and obligations
  - (l) The proposed route of all construction traffic exceeding 7.5 tonnes.
  - (m) Details of the amount and location of construction worker parking.
  - (n) Photographic evidence of the condition of adjacent public highway prior to commencement of any work;
11. No development shall take place until a surface water drainage scheme has been submitted to and approved in writing by the Local Planning Authority, in consultation with Devon County Council as the Lead Local Flood 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 which shall thereafter be retained and maintained.
12. No development shall take place on site until the off-site highway works as shown on drawing no. 15T097/01C have been constructed and made available for use.
13. The surface water drainage of the site shall be designed as to prevent the discharge of surface water onto any highway.
14. All telephone, electricity and mains gas services to the building shall be placed underground.
15. No part of the development hereby permitted shall be commenced until a programme of percolation tests has been carried out in accordance with BRE Digest 365 Soakaway Design (2016), and the results approved in writing by the Local Planning Authority, in consultation with Devon County Council as the Lead Local Flood Authority. A representative number of tests should be conducted to provide adequate coverage of the site, with particular focus placed on the locations and depths of the proposed infiltration devices.

16. No part of the development hereby permitted shall be commenced until the full details of the adoption and maintenance arrangements for the proposed permanent surface water drainage management system have been submitted to, and approved in writing by, the Local Planning Authority, in consultation with Devon County Council as the Lead Local Flood Authority.
17. No part of the development hereby permitted shall be commenced until the detailed design of the proposed surface water drainage management system which will serve the development site for the full period of its construction has been submitted to, and approved in writing by, the Local Planning Authority, in consultation with Devon County Council as the Lead Local Flood Authority. This temporary surface water drainage management system must satisfactorily address both the rates and volumes, and quality, of the surface water runoff from the construction site.
18. The mitigation, compensation and enhancement measures proposed in the Extended Phase 1 Survey Report (August 2016) prepared by EDP shall be implemented, completed and retained in accordance with the requirements of that report.

## **REASONS FOR CONDITIONS**

1. The application was submitted as an outline application in accordance with the provisions of Articles 4 & 5 of The Town and Country Planning (Development Management Procedure) Order 2010.
2. In accordance with the provisions of Section 92(2) of the Town and Country Planning Act 1990 as amended by Section 51 Planning and Compulsory Purchase Act 2004.
3. In accordance with the provisions of Section 92(2) of the Town and Country Planning Act 1990 as amended by Section 51 Planning and Compulsory Purchase Act 2004.
4. To enable the LPA to consider the impact of the development particularly on the occupiers of the neighbouring properties and the adjacent Conservation Area, in accordance with policy DM2 of the adopted Mid Devon Local Plan Part 3 (Development Management Policies).
5. For the avoidance of doubt and in the interests of proper planning.
6. To ensure the use of materials appropriate to the development in order to safeguard the character and appearance of the conservation area in accordance with:  
Mid Devon Core Strategy (Local Plan 1) COR2  
Local Plan Part 3: (Development Management Policies) DM2 and DM15.
7. In the interest of the visual amenity of the area in accordance with policy DM2 of the Local Plan Part 3: (Development Management Policies)
8. To ensure that adequate information is available for the proper consideration of the detailed proposals.
9. 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
10. 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
11. To ensure that surface water runoff from the development is discharged as high up the drainage hierarchy as is feasible, and is managed in accordance with the principles of sustainable drainage systems in accordance with policy DM2 Local Plan Part 3 (Development Management Policies).

12. In the interests of highway safety and to minimise the impact of the development on the highway network in accordance with paragraph 32 of National Planning Policy Framework.
13. To prevent damage and to restrict the surface water running onto the highway in the interests of highway safety.
14. In order to safeguard the historic visual amenity of area - Mid Devon Core Strategy (Local Plan 1) COR2 and Local Plan Part 3: (Development Management Policies) DM2
15. To ensure that surface water from the development is discharged as high up the drainage hierarchy as is feasible.
16. To ensure that the development's permanent surface water drainage management systems will remain fully operational throughout the lifetime of the development in accordance with policy DM2 Local Plan Part 3 (Development Management Policies).
17. To ensure that surface water runoff from the construction site is appropriately managed so as to not increase the flood risk, or pose water quality issues, to the surrounding area.
18. To ensure the proposed development retains the known biodiversity assets in accordance with Policy DM2 of the Local Plan Part 3 (Development Management Policies).

## INFORMATIVE NOTES

1. The developer must ensure compliance with the requirements relating to protected species by virtue of the Wildlife and Countryside Act 1981 and the Habitats Regulations. Any operations that would disturb bird nesting habitat should be undertaken outside the breeding season (March to August inclusive).
2. Foul drainage should be kept separate from clean surface and roof water and connected to the public sewerage system.
3. The widening of the carriageway will need to be secured through the appropriate legal agreement under the Highways Act and drawing T097/01/C should be completed prior to commencement on site to cater for swept path of construction vehicles and provision of appropriate visibility.
4. This permission shall not constitute an approval of the layout plan No. 15061 - SK07 submitted with the application, because it has been treated as being for illustrative purposes only. There will need to be changes to accommodate the refuse vehicle turning circles and limits of adoption.
5. In regards to the drainage system for the site you are advised to refer to Devon County Council's Sustainable Drainage Guidance. In accordance with the SuDS Management Train, surface water should be managed at source in the first instance. The applicant will therefore be required to explore the use of a variety of above-ground source control components at detailed design across the whole site to avoid managing all of the surface water from the proposed development at one concentrated point (e.g. a single attenuation pond). Examples of these source control components could include permeable paving (which could be underdrained), formalised tree pits or other bioretention features such as rain gardens, as well as green roofs, swales and filter drains.
6. All relevant reserved matters applications should demonstrate, generally in the Design and Access Statement, the following principles of Crime Prevention through Environmental Design (CPTED).
7. It is noted that the Extended Phase 1 Survey Report is dated August 2016 and that the survey work was undertaken in March 2016, a sub-optimal period for undertaking an extended Phase 1 Survey.



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

Having regard to all material considerations, it is concluded that the application does accord with the presumption in favour of sustainable development. When tested against Paragraph 14 of the Framework the Local Planning Authority consider that the adverse impacts of the proposed development would not significantly and demonstrably outweigh the benefits when assessed against the policies of the NPPF as a whole, as well as being in accordance with Policy COR1 of the Mid Devon Core Strategy (Local Plan Part 1) and Policy DM1 of the Mid Devon Local Plan Part 3 (Development Management Policies). The application has therefore been recommended for approval.

Application No. 17/00886/MOUT

Grid Ref: 305658 : 112080

Applicant: R & L Persey Vegetables Ltd

Location: Land at NGR 305578 112053  
Uffculme Road  
Uffculme  
Devon

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

Date Valid: 21st June 2017



## **Application No. 17/00886/MOUT**

### **RECOMMENDATION**

That Members determine this application in light of the decision on the previous application reference 17/00300/MOUT.

### **PROPOSED DEVELOPMENT**

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

This is a resubmission of application 17/00300/MOUT which was considered by Planning Committee in May and then refused at the committee in June 2017, contrary to officer advice that permission be granted. That application is now with the Planning Inspectorate where they are considering a written representations appeal. The reasons for refusal on that application were:

(i) The application site is outside the current settlement limit boundaries of the village of Uffculme and is in the open countryside. Policy COR18 of the adopted Mid Devon Core Strategy (Local Plan Part 1) seeks to strictly control development outside settlement limits and a development in this location of the scale as proposed would not be permitted under criteria a - f of this adopted policy. Neither is the site proposed to be allocated for housing within the Councils Local Plan Review 2013 -2033. The applicant asserts that the Local Planning Authority cannot demonstrate that it has an adequate five year supply of housing land as required by the National Planning Policy Framework, and therefore Policy COR18 should be afforded limited weight and that the application should be determined against the provisions of Paragraph 14 of the National Planning Policy Framework. When tested against Paragraph 14 of the Framework the Local Planning Authority consider that the adverse impacts of the proposed development would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework as a whole as well as being contrary to Policy COR1 of the Mid Devon Core Strategy (Local Plan Part 1) and Policy DM1 of the Mid Devon Local Plan Part 3 (Development Management Policies).

(ii) The Local Planning Authority consider that the proposed unplanned development individually, and cumulatively together with the proposed development of the adjacent site (policy UF1 in the Local Plan Review) would lead to a detrimental impact upon the rural character of the area as a result of the ribbon form of development running west from the village of Uffculme and the effect of closing the existing green gap between Uffculme and the Langlands Business Park, contrary to policies COR2 of the Mid Devon Core Strategy (Local Plan Part 1) and DM2 of the Local Plan Part 3 (Development Management Policies).

This current application, is an identical submission to the previous application

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

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

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

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

Design and Access Statement  
Flood Risk Assessment  
Transport Statement  
Ecological Appraisal  
Arboricultural Survey  
Carbon Reduction Statement  
Waste Audit Statement  
Geo-environmental Desk Study Report  
Bat activity report  
Draft heads of terms for s106  
Supplementary TPP for proposed footpath

#### **PLANNING HISTORY**

17/00300/MOUT Outline for the erection of 30 dwellings and new vehicular and pedestrian access -  
REFUSED (APPEAL PENDING)

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

#### **DEVELOPMENT PLAN POLICIES**

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

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

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

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

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

DM1 - Presumption in favour of sustainable development  
DM2 - High quality design  
DM3 - Sustainable design  
DM4 - Waste management in major development  
DM6 - Transport and air quality  
DM27 - Development affecting heritage assets  
DM28 - Green infrastructure in major development

## CONSULTATIONS

**WILLAND PARISH COUNCIL** -17th July 2017 - Willand Parish Council discussed this at the meeting on 13 July and noted that it was the same application it had considered in March. The Council saw no reason to change its previous recommendation that the application be refused for the reasons as stated below and commented that they considered it to be ribbon development.

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

- 1) The site is in open countryside and not in a settlement area where development could be justified.
- 2) The land is not allocated in any current local plan or emerging local plan for development of any description.
- 3) This is a major development for a rural area and will have an impact on the villages of Uffculme and Willand in respect to education, health and many other services. Although in Halberton Parish it will not adversely impact on that parish.
- 4) The development will create additional vehicle movements, the majority of which will have to travel through Willand via the Four Cross Way roundabout, and most of the traffic will then move up the B3181 to Waterloo Cross. On the way, there are two junctions with accident records. Traffic on the B3181 is increasing with current and approved business developments and much of this increase consists of heavy goods vehicles.
- 5) The Waterloo Cross roundabout is becoming a 'pinch point' and concern as to this junction was raised by a Government Inspector in relation to the recent Devon Minerals plan which will increase traffic at this point. With possible additional development at Junction 27 of the motorway the current position will be further aggravated. If traffic were to travel towards Cullompton there are recorded concerns in relation to the area of Junction 28 of the M5.

The Parish Council also supported the reasons given by MDDC Planning Committee for refusal of the previous application.

**UFFCULME PARISH COUNCIL** - 20th July 2017 - The Council strongly opposes this application. This application is identical to 17/00300/MOUT. We consider submitting exactly the same documents and designs, without minor alteration to be deplorable by the applicant. The Planning Committee has refused this application and we encourage the same decision again as there are no material modifications [Previous comments - The Parish Council objects to this application. The land lies outside the settlement boundary of the village. Permission would see a further ribbon development that would also further reduce the rural nature of the distinction between the villages of Uffculme and Willand. The land is also not included in the existing or emerging local plans as sites for development.]

**HIGHWAY AUTHORITY** - 24th July 2017 - Observations:

The Highway Authority will raise no objection to the proposed extension to the previously approved development and is of the opinion that the majority of the traffic will utilise the M5 south via junction 27. The Local Planning Authority is aware of the Highway Authority's concerns with regard the capacity issues at junction 28, this site is approximately equidistant from both Junction 27 and Junction 28, but given the queue at junction 28 in the am peak and ( while counter intuitive) the time to get to a point on the M5 at junction 28 is a shorter time frame when travelling via junction 27 and will become the desired route..

The applicant has submitted a plan showing 1.2m footway to Langlands business park and this is welcomed, however the Highway Authority would seek to see a footway of 1.5m or greater where possible with localised narrowing to 1.2m. The Safety audit has advised such widths and while these can be achieved by narrowing the road the volume of HGV traffic leads the Highway Authority to prefer a uniform carriageway width and variable footway. As with the previous proposal to the east the highway Authority would seek and emergency access point from the Uffculme road to the west of the vehicle access from the Uffculme straight. Therefore any detail design will need to incorporate the above and the Highway Authority recommends the following conditions.

**ENVIRONMENT AGENCY** - No objection - Although the southern boundary of the site near the River Culm is within Flood Zone 3, where there is a high probability of flooding, the proposed residential units would all sit within Flood Zone 1 where the probability of flooding is low. LPA will need to apply the sequential test.

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

services to meet the needs of the whole rural population.

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

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

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

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

**LEAD LOCAL FLOOD AUTHORITY - 24th July 2017 - Recommendation:**

At this stage, we have no in-principle objections to the above planning application, from a surface water drainage perspective, assuming that the following pre-commencement planning conditions are imposed on any approved permission:

No part of the development hereby permitted shall be commenced until the detailed design of the proposed surface water drainage management system which will serve the development site for the full period of its construction has been submitted to, and approved in writing by, the Local Planning Authority, in consultation with Devon County Council as the Lead Local Flood Authority. This temporary surface water drainage management system must satisfactorily address both the rates and volumes, and quality, of the surface water runoff from the construction site.

Reason: To ensure that surface water runoff from the construction site is appropriately managed so as to not increase the flood risk, or pose water quality issues, to the surrounding area.

Advice: Refer to Devon County Councils Sustainable Drainage Guidance.

Observations:

The applicant has submitted a suitable surface water drainage plan in the flood risk assessment (Awcock Ward Partnership Project Number, Ref: 0172, dated February 2017). Additional information in relation to the surface water drainage aspects of the above planning application has also been provided by Awcock Ward Partnership via email (Dated 30th March 2017), for which I am grateful.

**NATURAL ENGLAND - No objection -**

Statutory nature conservation sites - no objection

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

Natural England has published Standing Advice on protected species.

**DEVON, CORNWALL & DORSET POLICE - Neutral -**

. As with the previous application (17/00300), I am unable to comment in depth as the available illustrative site plan does not reveal any specific details that would be of concern to the police.

However, all relevant planning applications should demonstrate, generally within the Design and Access Statement, the principles of Crime Prevention through Environmental Design (CPTED) and how they have been considered and incorporated into the design and layout of all new developments.

The seven attributes of Crime Prevention Through Environmental Design (CPTED) are key to ensuring a safe and sustainable community and in addition to the layout the physical security is now a consideration.

Access and movement: Places with well-defined and well used routes, with spaces and entrances that provide for convenient movement without compromising security.

Structure: Places that are structured so that different uses do not cause conflict Surveillance: Places where all publicly accessible spaces are overlooked, have a purpose and are managed to prevent the creation of problem areas which can attract the antisocial to gather, dumping and dog fouling etc.

Ownership: Places that promote a sense of ownership, respect, territorial responsibility and community

Physical protection: Places that include necessary, well-designed security features as laid out in SBD

Homes 2016

Activity: Places where the level of human activity is appropriate to the location and creates a reduced risk of crime and a sense of safety at all times.

Management and maintenance: Places that are designed with management and maintenance in mind, to discourage crime and ASB.

Early consultation with the police frequently prevents delays further down the planning process when crime and disorder issues present a problem with the layout of a submitted design.

I look forward to reviewing a more detailed application in due course but in the meantime please do not hesitate to contact me if I can assist further.

#### **DEVON COUNTY EDUCATION - No objection**

We request an education contribution to mitigate the impact of development. The proposed 30 family-type dwellings will generate an additional 7.5 primary pupils and 4.5 secondary pupils. Both the local primary and secondary schools are forecast to be at capacity and therefore Devon County Council will seek a contribution towards provision of both primary and secondary school infrastructure. Our primary contribution request is £102,390 and the Secondary education contribution is £98,644. A contribution towards Early Years education is needed ensure delivery of provision for 2, 3 and 4 year olds. This would cost £7,500 (based on £250 per dwelling). This will be used to provide additional early years provision for pupils likely to be generated by the proposed development.

#### **MID DEVON DISTRICT COUNCIL - TREE OFFICER - No objection -**

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

#### **SOUTH WEST WATER - No objection**

### **REPRESENTATIONS**

Two letters of objection received, summarised as follows:

1. Impact of additional traffic through Willand
2. Burden on local infrastructure and facilities

### **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

The main issues in the determination of this application are:

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

#### **1. Planning History**

Members considered an identical proposal in May 2017 and indicated that they were minded to refuse the application contrary to an officer recommendation to grant permission. A subsequent implications report was then considered by Planning Committee in June and members resolved to refuse planning permission. That application is now with the Planning Inspectorate for a written representations appeal. This current application is an identical resubmission. The LPA have already made a decision on 30 dwellings on this site and concluded that it was inappropriate. In determining this application, members will need to consider whether there have been any material changes in circumstance which would lead them to make a different decision.

## **2. Adopted and emerging planning policy and five year land supply**

Policy COR12 of the Core Strategy sets out the development focus for the District, concentrating development around the towns of Tiverton, Cullompton and Crediton with more limited development elsewhere. Policy COR17 provides a definition of villages with defined settlement limits and sets out the type and scale of development that is acceptable within defined settlement limits and permitted on allocations outside settlement limits. Policy COR18 seeks to control development outside defined settlement limits to appropriate rural uses, excluding new market housing.

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

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

The Local Plan Review proposes to allocate land immediately to the east of the application site (including part of the red line of this site which relates to the point of access) for 60 dwellings as that site has already been granted planning permission on appeal (policy ref. UF1). That appeal decision in April 2016 found that the authority is unable to demonstrate that it has an adequate 5 year supply of housing land and it is on that basis that this site is now brought forward. The National Planning Policy Framework (the Framework) advises that where a five year land supply of deliverable housing sites cannot be demonstrated, policies on housing supply should not be considered up to date. This includes settlement limits identifying areas which are open countryside and those which are within defined settlements.

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

Paragraph 14 of the Framework, reiterated by policy DM1 of Local Plan Part 3, states that where development plan policies are considered to be out of date, planning permission should be granted unless adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the Framework as a whole OR specific policies in the Framework indicate development should be restricted. Housing applications need therefore to be considered in the context of sustainable development, unless specific policies indicate development should be restricted.

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

## **3. Highways Considerations**

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

Concerns have been raised that the road from which this site is accessed is dangerous and reference is made to a fatal accident in the vicinity. This issue was also raised as part of the appeal at the neighbouring site but the Inspector found that there was no compelling evidence to demonstrate that the scheme for 60 houses would result in highway safety issues or congestion from increased traffic volumes. The additional



traffic arising from a further 30 houses would not be significant and a similar conclusion is reached as part of this application.

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

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

#### **4. Considerations of location and scale and the character of the area**

The appeal decision for the neighbouring site concluded that the wide range of facilities available in Uffculme (2 shops, 2 public houses, café, takeaway, GP surgery, community hall and fields, pre-school, primary school & secondary school) render the village better served than the other villages identified as settlements in the Core Strategy and that it was within an acceptable and safe walking distance of those services and facilities. Equally, the proximity to employment land is such that the location is readily accessible to some employment opportunities by sustainable means. Despite being located slightly further to the west than the appeal site, it would not be reasonable to reach a different conclusion in relation to the location of this site than that reached by the Inspector on the application for 60 dwellings.

The LPA, in their appeal submission on the previous application have set out their concerns relating to the impact on the character of the area.

The appeal site forms part of landscape character type (LCT) 3E 'lowland plains' as defined in the Mid Devon Landscape Character Assessment (LCA) 2011.

The key characteristics of this LCT include: gently rolling middle ground to lowland with smooth, rounded hilltops that have concave lower and convex upper slopes, primarily managed as arable farmland with fields being divided by hedgerows and hedgebanks and typically has short vistas terminated by a backdrop of curving hills.

Its special qualities are noted as including a 'highly fertile arable landscape which is valued for its contribution to the agrarian character and quality of Mid Devon' and that one of the past forces for change was development that did not maintain the existing settlement pattern of...nucleated villages.

Future forces for change include if the landscape is degraded then it becomes vulnerable to development

Whilst it is noted that the Inspector at paragraph 80 of the decision on the adjacent site, advised that the 'development would not materially close the gap between the settlements' and that they would 'each retain their individual identity', this current appeal proposal would result in further residential development which would visually close the gap between Uffculme and Langlands Business Park.

This is the particular concern of the LPA in relation to this appeal. Uffculme was once a nucleated village, set around The Square. Over the decades, development has spread south west wards along the B3440 culminating at Culm Valley Way. To the west of the appeal site is a former poultry farm, which over a number of years reverted to the Langlands Business Park. With the approval of 60 dwellings on the adjacent

site, the LPA are concerned that the development of another 30 dwellings in this vicinity will further elongate the village, detract from its nucleated origins and result in an inappropriate ribbon-form of development along the south side of the B3340, which would result in the village and Langlands joining up.

The LPA consider that whilst the Inspector felt that 60 houses on the adjoining site was acceptable, it does not set a precedent to agree to further development in this area, with the resultant adverse impact in terms of the ribbon-development which would result along the B3440. To be clear, the points in this and previous paragraph form part of the Council's case at appeal. Officers recommended approval.

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

## **5. Trees and ecology**

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

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

## **6. Drainage and flooding**

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

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

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

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

## **7. Infrastructure considerations**

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

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

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

The development would give rise to an additional need for public open space provision and policy AL/IN/3 requires 60 square metres of equipped and landscaped public open space per dwelling. It is not considered that on-site provision is necessitated in this instance but a financial contribution toward improved provision off-site in the locality should be required through a Section 106 agreement.

The applicant has indicated a willingness to enter into a s106 agreement with the LPA.

## **8. Other matters**

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

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

The proposed dwellings would be eligible for counting towards the New Homes Bonus. If the New Homes Bonus is distributed across Council Tax Bands in the same way as in 2015, the award for each house would be £1,028 per year (each affordable house attracting a further £350 bonus), New Homes Bonus is under review by the Government. If completion of the development takes place in 2018/19, payment would be made for 4 years, amounting to £137,360.

## **9. Planning balance**

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

The Framework requires that where Local Plan policies are considered to be out of date, planning permission should be granted unless adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the Framework as a whole or specific policies in the Framework indicate development should be restricted.

In weighing up all material considerations in relation to the previous application, Members considered that the detrimental impact upon the rural character of the area as a result of the ribbon form of development running west from the village of Uffculme and the effect of closing the existing green gap between Uffculme

and the Langlands Business Park significantly and demonstrably outweighed the benefits such that the application should be refused. The decision was made less than 3 months ago and there has been no change in relevant policy since that date, it is not considered there are any other material considerations which weigh in the balance. This second application has not addressed the reasons for refusal.

Members should note that the view of your officers remains consistent with that on the earlier application 17/00300/MOUT which was recommended for approval.

A copy of the report on application 17/00300/MOUT considered at the meeting of this committee on 17th May 2017 is appended.

## **REASONS FOR REFUSAL**

1. The application site is outside the current settlement limit boundaries of the village of Uffculme and is in the open countryside. Policy COR18 of the adopted Mid Devon Core Strategy (Local Plan Part 1) seeks to strictly control development outside settlement limits and a development in this location of the scale as proposed would not be permitted under criteria a - f of this adopted policy. Neither is the site proposed to be allocated for housing within the Councils Local Plan Review 2013 -2033. The applicant asserts that the Local Planning Authority cannot demonstrate that it has an adequate five year supply of housing land as required by the National Planning Policy Framework, and therefore Policy COR18 should be afforded limited weight and that the application should be determined against the provisions of Paragraph 14 of the National Planning Policy Framework. When tested against Paragraph 14 of the Framework the Local Planning Authority consider that the adverse impacts of the proposed development would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework as a whole as well as being contrary to Policy COR1 of the Mid Devon Core Strategy (Local Plan Part 1) and Policy DM1 of the Mid Devon Local Plan Part 3 (Development Management Policies).
2. The Local Planning Authority consider that the proposed unplanned development individually, and cumulatively together with the proposed development of the adjacent site (policy UF1 in the Local Plan Review) would lead to a detrimental impact upon the rural character of the area as a result of the ribbon form of development running west from the village of Uffculme and the effect of closing the existing green gap between Uffculme and the Langlands Business Park, contrary to policies COR2 of the Mid Devon Core Strategy (Local Plan Part 1) and DM2 of the Local Plan Part 3 (Development Management Policies).

**PREVIOUS REPORT**  
**Application No. 17/00300/MOUT**

## **Appendix to Plans List 3**

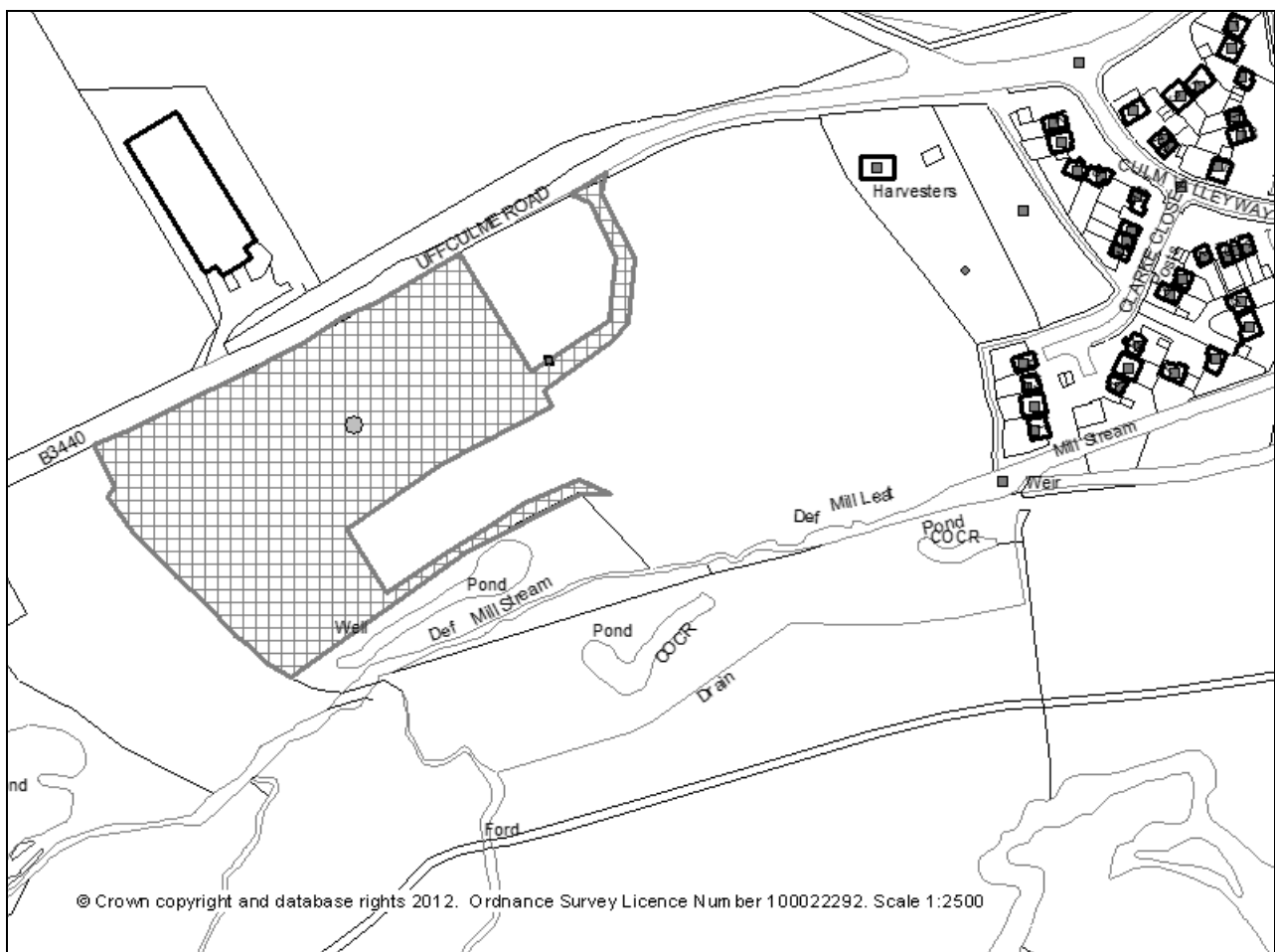
**Grid Ref:** 305658 : 112080

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

**Location:** Land at NGR 305578 112053  
Uffculme Road Uffculme Devon

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

**Date Valid:** 23rd February 2017



## **Application No. 17/00300/MOUT**

### **RECOMMENDATION**

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

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

### **PROPOSED DEVELOPMENT**

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

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

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

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

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

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

### **PLANNING HISTORY**

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

## **DEVELOPMENT PLAN POLICIES**

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

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

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

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

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

DM1 - Presumption in favour of sustainable development  
DM2 - High quality design  
DM3 - Sustainable design  
DM4 - Waste management in major development  
DM6 - Transport and air quality  
DM27 - Development affecting heritage assets  
DM28 - Green infrastructure in major development

### **Devon Waste Plan**

W4 Waste Prevention

## **National Planning Policy Framework**

## **CONSULTATIONS**

WILLAND PARISH COUNCIL - 13th March 2017

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

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

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

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

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

Refusal of this additional housing is recommended

UFFCULME PARISH COUNCIL - 13th March 2017

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

HIGHWAY AUTHORITY - No objection -

The site is located off an access previously agreed by the Highway Authority and the Highway Authority accept the application transport assessment. The Highway Authority considers that this site is unlikely to have an

impact on Junction 28 and the existing severe queue lengths even though a proportion will wish to travel in that direction. The Applicants should consider the provision of footway links to the industrial estate at Langlands and the

bus services and stops at that location. Therefore details of the pedestrian footway, access to the footway and its layout should be sought. A number of conditions are recommended.

ENVIRONMENT AGENCY - No objection -

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

ENVIRONMENTAL HEALTH - ENVIRONMENTAL HEALTH - 1st March 2017

No objection

HALBERTON PARISH COUNCIL - 24th March 2017

Halberton Parish Council recommends Refusal of this application.

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

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

Specifically:

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

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

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

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



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

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

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

**LEAD LOCAL FLOOD AUTHORITY - No objection -**

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

**NATURAL ENGLAND - No objection -**

Statutory nature conservation sites - no objection

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

Natural England has published Standing Advice on protected species.

**DEVON, CORNWALL & DORSET POLICE - Neutral -**

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

**DEVON COUNTY EDUCATION - No objection**

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

**MID DEVON DISTRICT COUNCIL - TREE OFFICER - No objection -**

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

**SOUTH WEST WATER - No objection -**

A connection to the foul or public sewer should be made

**REPRESENTATIONS**

Two letters of objection received, summarised as follows:

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

## **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

The main considerations in the determination of this application are:

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

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

Policy COR12 of the Core Strategy sets out the development focus for the District, concentrating development around the towns of Tiverton, Cullompton and Crediton with more limited development elsewhere. Policy COR17 provides a definition of villages with defined settlement limits and sets out the type and scale of development that is acceptable within defined settlement limits and permitted on allocations outside settlement limits. Policy COR18 seeks to control development outside defined settlement limits to appropriate rural uses, excluding new market housing.

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

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

The Local Plan Review proposes to allocate land immediately to the east of the application site (including part of the red line of this site which relates to the point of access) for 60 dwellings as that site has already been granted planning permission on appeal (policy ref. UF1). That appeal decision in April 2016 found that the authority is unable to demonstrate that it has an adequate 5 year supply of housing land and it is on that basis that this site is now brought forward. The National Planning Policy Framework (the Framework) advises that where a five year land supply of deliverable housing sites cannot be demonstrated, policies on housing supply should not be considered up to date. This includes settlement limits identifying areas which are open countryside and those which are within defined settlements.

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

Paragraph 14 of the Framework, reiterated by policy DM1 of Local Plan Part 3, states that where development plan policies are considered to be out of date, planning permission should be granted unless adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the Framework as a whole OR specific policies in the Framework indicate development should be restricted. Housing applications need therefore to be considered in the context of sustainable development, unless specific policies indicate development should be restricted.

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

## **2. Highways considerations**

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

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

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

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

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

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

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

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

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

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

#### **4. Trees and ecology**

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

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

#### **5. Drainage and flooding**

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

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

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

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

## **6. Infrastructure considerations**

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

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

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

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

## **7. Other matters**

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

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

The proposed dwellings would be eligible for counting towards the New Homes Bonus. If the New Homes Bonus is distributed across Council Tax Bands in the same way as in 2015, the award for each house would be £1,028 per year (each affordable house attracting a further £350 bonus), New Homes Bonus is under review by the Government. If completion of the development takes place in 2018/19, payment would be made for 4 years, amounting to £137,360.

## **8. Planning balance**

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

The Framework requires that where Local Plan policies are considered to be out of date, planning permission should be granted unless adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the Framework as a whole or specific policies in the Framework indicate development should be restricted.

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

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

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

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

## **CONDITIONS**

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

8. No development shall begin until an Arboricultural Method Statement and Tree Protection Plan, based on the submitted Arboricultural Survey dated February 2017 (including the supplementary TPP dated 21/04/2017) and to include engineering details for any areas of no-dig construction, has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in strict accordance with the approved details.
9. The proposed estate road, cycleways, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, road maintenance/vehicle overhang margins, embankments, visibility splays, accesses, car parking and street furniture shall be constructed and laid out in accordance with details to be approved by the Local Planning Authority in writing before their construction begins. For this purpose, plans and sections indicating, as appropriate, the design, layout, levels, gradients, materials and method of construction shall be submitted to the Local Planning Authority.
10. The development hereby approved shall not be carried out otherwise than in accordance with a phasing programme which shall previously have been submitted to and approved by the Local Planning Authority in writing.
11. No other part of the development hereby approved shall be commenced until:
  - A) The access road has been laid out, kerbed, drained and constructed up to base course level for the first 20.00 metres back from its junction with the public highway
  - B) The ironwork has been set to base course level and the visibility splays required by this permission laid out
  - C) The footway on the public highway frontage required by this permission has been constructed up to base course level
  - D) A site compound and car park have been constructed to the written satisfaction of the Local Planning Authority
12. The occupation of any dwelling in an agreed phase of the development shall not take place until the following works have been carried out:
  - A) The spine road and cul-de-sac carriageway including the vehicle turning head within that phase shall have been laid out, kerbed, drained and constructed up to and including base course level, the ironwork set to base course level and the sewers, manholes and service crossings completed;
  - B) The spine road and cul-de-sac footways and footpaths which provide that dwelling with direct pedestrian routes to an existing highway maintainable at public expense have been constructed up to and including base course level;
  - C) The cul-de-sac visibility splays have been laid out to their final level;
  - D) The street lighting for the spine road and cul-de-sac and footpaths has been erected and is operational;
  - E) The car parking and any other vehicular access facility required for the dwelling by this permission has/have been completed;
  - F) The verge and service margin and vehicle crossing on the road frontage of the dwelling have been completed with the highway boundary properly defined;
  - G) The street nameplates for the spine road and cul-de-sac have been provided and erected.

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

## **REASONS FOR CONDITIONS**

1. The application was submitted as an outline application in accordance with the provisions of Articles 5 and 6 of The Town and Country Planning (Development Management Procedure) (England) Order 2015.
2. In accordance with the provisions of Section 92(2) of the Town and Country Planning Act 1990 as amended by Section 51 Planning and Compulsory Purchase Act 2004.
3. In accordance with the provisions of Section 51 of the Planning and Compulsory Purchase Act 2004.
4. In accordance with the provisions of Section 92(2) of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
5. For the avoidance of doubt and in the interests of proper planning.
6. To minimise flood risk and provide sustainable drainage on site in accordance with policies COR11 of the Mid Devon Core Strategy (Local Plan Part 1) and DM2 of the Mid Devon Local Plan Part 3 (Development Management Policies) and in accordance with guidance contained within the DEFRA document 'Non-statutory technical standards for sustainable drainage systems'.
7. To ensure that surface water runoff from the construction site is appropriately managed so as to not increase the flood risk, or pose water quality issues, to the surrounding area.
8. To ensure the development is carried out without detriment to the health and amenity of trees and hedgerows on the site.
9. To ensure that adequate information is available for the proper consideration of the detailed proposals.
10. To ensure the proper development of the site.
11. To ensure that adequate on site facilities are available for all traffic attracted to the site during the construction period, in the interest of the safety of all users of the adjoining public highway and to protect the amenities of the adjoining residents.
12. To ensure that adequate access and associated facilities are available for the traffic attracted to the site.
13. To provide safe pedestrian access to the nearest available employment site and bus stops and to minimise the impact of the development on the highway network in accordance with paragraph 32 of the Framework.

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

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



Application No. 17/00913/HOUSE

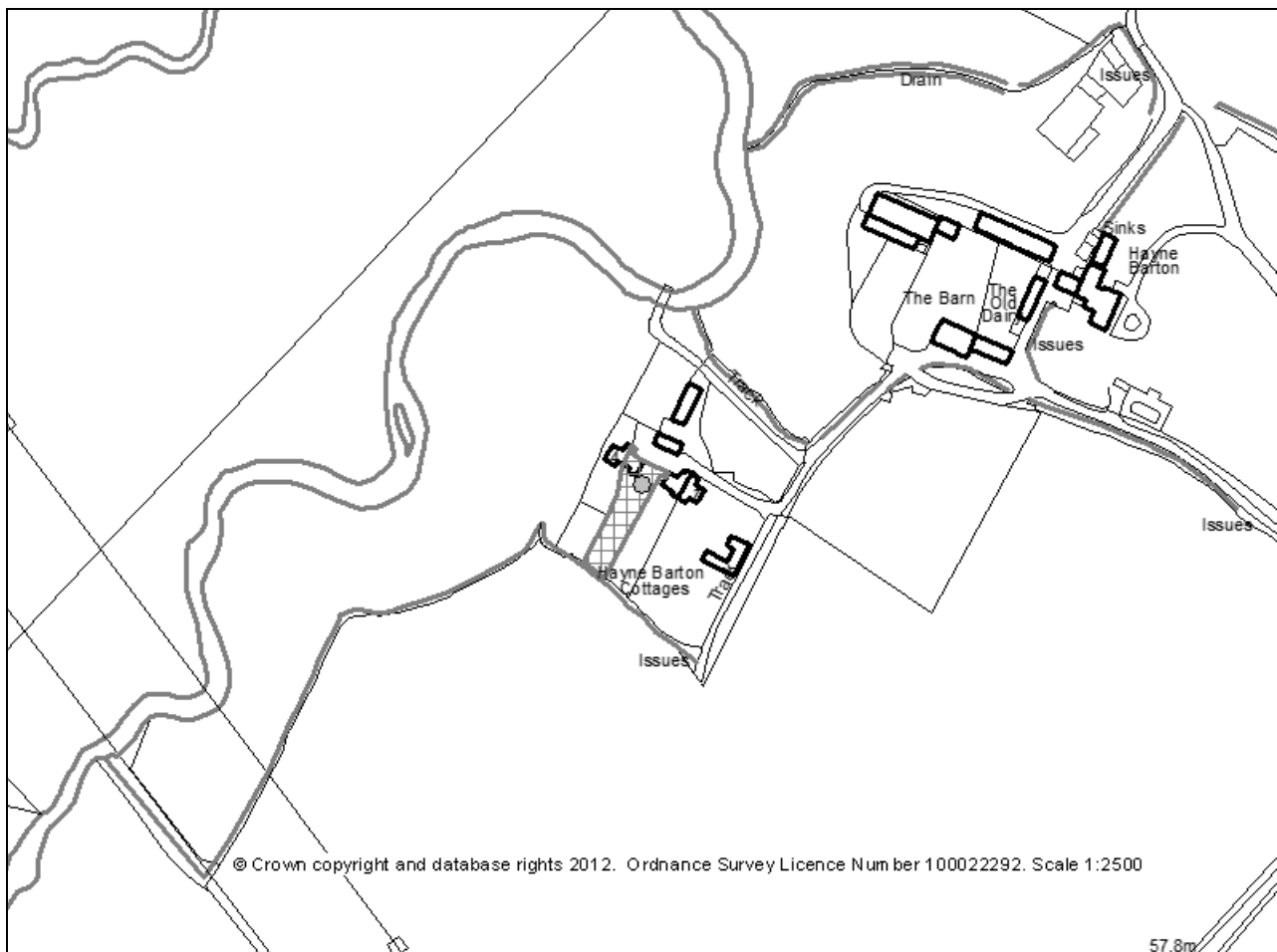
Grid Ref: 303367 : 108955

Applicant: Mr P Barrett

Location: 3 Hayne Barton Cottages  
Cullompton  
Devon  
EX15 1QW

Proposal: Erection of ancillary accommodation (Revised scheme)

Date Valid: 14th June 2017



## **Application No. 17/00913/HOUSE**

### **RECOMMENDATION**

Grant permission subject to conditions.

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

1. Non compliance with planning regulation non compliance with environmental regulation for drainage and foul water disposal, lack of Foul Drainage Assessment.
2. The building erected does not accord with the proposed plans. If the plans were approved and this building was used for four years independently it could be considered as a new dwelling in the open countryside.
3. Applicant is letting it as holiday accommodation, it cannot be classed as ancillary.

### **MEMBERS ARE ASKED TO NOTE THAT THIS IS A HOUSEHOLDER APPLICATION**

### **PROPOSED DEVELOPMENT**

The proposed development is for the erection of ancillary accommodation at 3 Hayne Barton Cottages, Cullompton. The application is a revised scheme application from the previously approved scheme granted permission under application reference: 17/00218/HOUSE. The previous grant of planning permission for a similar scheme is a material consideration when considering this application.

The differences between the current scheme and the previously approved scheme are outlined below:

- 1) The previous scheme proposed to connect to the existing foul drainage system serving the 4 cottages at Hayne Barton. This application proposes to connect to a new treatment plant within the curtilage of 3 Hayne Barton Cottages. The new treatment plant has been installed on the site is not considered to have required planning permission.
- 2) The orientation of the proposed accommodation has been amended to reflect what has been erected on the site.
- 3) The accommodation was to be sited 0.8m from the boundary fence between number 2 and number 3 Hayne Barton Cottages. The current application proposes to move the accommodation out 2 metres from the boundary fence.
- 4) The design and appearance of the accommodation is different in that;
  - i) A box structure attached to the side elevation has been installed which accommodates the water heater for the ancillary accommodation.
  - ii) A fence around the north, west and south elevations of the accommodation has been erected to a height of 1.89 metres on the side west elevation and rear south elevation. The fence to the front north elevation is erected at a height of 0.9 metres with double gates for disabled access slightly higher.

During the application process the planning officer has carried out multiple site visits. On the most recent site visit carried out on 25th July 2017 the officer was able to look inside of the accommodation. Photographs of the accommodation both internally and externally will be available to members on the committee PowerPoint to be presented on 6th September 2017.

The proposed ancillary accommodation measures 4 metres x 5 metres with an eaves height of 2.3 metres and overall height to ridge level of 3.8 metres. The accommodation is located 2 metres from the eastern boundary of the property between 2 Hayne Barton and the application site.

The main house is let out as holiday accommodation, this use started in 2016 according to the applicant and does not require planning permission. The bedrooms within the main house are all at first floor level with the

one and only bathroom also being located at first floor level. There is no sleeping accommodation or toilet facility on the ground floor which at present makes the main house unsuitable for anyone with mobility issues. The proposed ancillary accommodation is suitable for those with mobility issues and consists of a bedroom with en-suite wet room, small sitting area and kitchenette area suitable for making hot drinks and access to a microwave. Access to the ancillary accommodation is via double doors and a ramp to the front (north) of the unit.

It is considered that the proposed accommodation would be ancillary to the main house if not used, let, sold or otherwise disposed of as a separate unit of living accommodation. A planning condition to restrict the use of the accommodation is considered reasonable and necessary in order to make the development acceptable. The applicant has stated that it not the intention of the application to create a separate unit of holiday accommodation or a separate unrestricted unit. No planning permission is required to use the dwelling and proposed annexe building as holiday accommodation. The proposed condition would ensure that they are only let or used together.

## **APPLICANT'S SUPPORTING INFORMATION**

Site location plans, block plan, existing and proposed plans, planning statement, fence and tree layout, drains layout, storm and waste water strategy, sewage treatment plant manufacturer's details, flood risk assessment.

## **PLANNING HISTORY**

16/01858/HOUSE - WDN date 6th February 2017  
Erection of ancillary accommodation for holiday let  
17/00218/HOUSE - PERMIT date 30th March 2017  
Erection of ancillary accommodation (Revised scheme)

## **DEVELOPMENT PLAN POLICIES**

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

**Mid Devon Local Plan Part 3 (Development Management Policies)**  
DM2 - High quality design  
DM13 - Residential extensions and ancillary development

## **CONSULTATIONS**

**CULLOMPTON TOWN COUNCIL:** 27th June 2017 - No comment.

**HIGHWAY AUTHORITY:** 20th June 2017 - standing advice applies <http://www.devon.gov.uk/highways-standingadvice.pdf>.

**ENVIRONMENT AGENCY:** Householder development and alterations. Within flood zone 3. No Environment Agency consultation required.

**ENVIRONMENTAL HEALTH:** 19th June 2017 - Contaminated Land - No objection  
Air Quality - No objection  
Environmental Permitting - N/A  
Drainage - No objection  
Noise & other nuisances - No objection  
Housing Standard - No comment  
Licensing - No comments  
Food Hygiene - N/A

#### Private Water Supplies - Informative note

No record is held for the proposal address. However, if a private supply is to be used by more than one property it would be classed as a Regulation 10 small supply, unless a commercial element is involved when it would be classed as a Regulation 9 supply under The Private Water Supply (England) Regulations 2016. In either circumstance a risk assessment and sampling regime will be necessary. The supply must not be used until the Local Authority (Mid Devon District Council) is satisfied that the supply does not constitute a potential danger to human health, including single domestic use. Please contact Public Health at Mid Devon District Council on completion of proposal.

If mains water is to be used I would have no comment.

Health and Safety - No objection enforced by HSE

## REPRESENTATIONS

Three letters of objection have been received in relation to the application. The main issues contained in the letters are summarised as follows:

- o Inaccuracies in the application form - additional information has been received to further clarify what is being proposed by the application;
- o Traffic impacts;
- o Parking provision;
- o Visual impacts on occupants of neighbouring properties;
- o Potential noise issues;
- o Foul drainage connection issues - additional information has been sought to clarify that no foul drainage will be discharged into the ditch;
- o Surface water disposal - further information has been sought to clarify that no surface water or storm water will be discharged into the ditch;
- o Questioning the use of the annexe being ancillary, potential to be self-contained separate living unit.

## MATERIAL CONSIDERATIONS AND OBSERVATIONS

The main issues in the determination of this application are:

1. The principle of development on the site
2. Whether the proposal complies with the criteria of policies DM2 (High quality design) and DM13 (Residential extensions and ancillary accommodation)

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

The dwelling subject to this application is not located within a defined settlement limit as set out in the Mid Devon Local Plan Part 1 (Core Strategy). The site is therefore considered to be located in the open countryside as defined by COR18 of the Mid Devon Core Strategy. Policy COR18 strictly controls development outside of settlements defined by COR13-17; limiting development to appropriately scaled and designed extensions and other physical alterations to existing buildings.

Development Management Policies as set out in the Mid Devon Local Plan part 3 further support residential extensions and ancillary development subject to specific criteria contained in policies DM2 (High quality design) and DM13 (Residential extensions and ancillary development). An assessment of the application scheme against these policies can be found in the below section of this report.

The use of the main property as a dwelling let out for holiday purposes complies with the Town and Country Planning (Use Classes) Order 1987 (as amended) as a C3 dwellinghouse. The properties lawful use is as a C3 dwellinghouse use as a permanent dwelling and holiday accommodation are within the C3 use class.

### 2. Whether the proposal complies with the criteria of policies DM2 (High quality design) and DM13 (Residential extensions and ancillary accommodation)

DM13 of the Local Plan part 3 (Development Management Policies) deals with residential extensions and

ancillary development. The policy permits extensions to existing dwellings and other ancillary development provided that they meet the following criteria:

- a) Respect the character, scale, setting and design of existing dwelling;
- b) Will not result in the over-development of the dwelling curtilage; and
- c) Will not have a significantly adverse impact on the living conditions of occupants of neighbouring properties.

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

- A) The proposed ancillary accommodation is typical in appearance and state of many domestic outbuildings. The unit is of timber construction with mineral felt roof. The height of the unit to ridge level is 3.8 metres. Fencing erected around the north, west and south elevations is considered to be domestic in appearance and respects the character and appearance of the site. The scale of the unit is modest for an annexe and amounts to approximately 20 square metres of ancillary living accommodation to be used in connection with the main dwelling. The unit is located to the south east of the main dwelling within the residential curtilage of the dwelling.
- B) The property enjoys a reasonable size curtilage to the rear and side of the property. The curtilage is considered to be sufficient to support the proposed development and parking provision in terms of the modest increase in floor space to be utilised within the plot. It is not considered that the proposed development would result in the over-development of the dwelling curtilage.
- C) The proposed ancillary accommodation is not considered to have a significantly adverse impact on the living conditions of occupants of neighbouring properties. The height of the proposed unit has a maximum height of 3.8 metres and is located 2 metres from the eastern boundary. No windows on the proposed unit will result in a loss of privacy and amenity for the occupants of the neighbouring property. It is not considered that the unit would result in any significant adverse impacts on occupants of neighbouring properties in terms of overshadowing, overlooking and/or creation of an oppressive environment. This takes into account the change in the orientation of the building from a gable end on relationship with the nearest neighbour to a side on relationship. The overall height of the unit is 3.8 metres, and for clarification under permitted development a garden building of a similar height could be erected for purposes incidental to the main house.

The applicant states that the justification for requiring the additional accommodation is to accommodate visitors with mobility issues, although it is not considered that undue weight should be attributed to this in terms of assessing the planning application. Although it is recognised the building is separate from the main house it remains in very close proximity, and therefore a building for ancillary occupation to the main house is considered to be acceptable in this location in accordance with policy DM13 of the Mid Devon Local Plan part 3 (Development Management Policies).

Further to policy DM13, the proposed ancillary accommodation is considered to be appropriately designed and on balance the scheme is considered to effectively utilise the site. The application scheme is therefore also considered to comply with DM2 (High quality design) of the Local Plan part 3 (Development Management Policies).

Foul drainage is proposed to be directed to a new package sewage treatment plant. The location of the new septic tank is shown on the submitted plans. Outfall will be connected to a soakaway, the location of which is also shown on the submitted plans.

Policy DM8 of the Local Plan part 3 (Development Management Policies) outlines a minimum standard of 1.7 parking spaces per residential dwelling, rounded to 2 spaces for single dwelling schemes. The submitted plans clearly show that there is sufficient turning and parking space for 2 vehicles to the front of the ancillary unit of accommodation. This application is therefore considered to comply with policy DM8.

There are no other material considerations to militate against the grant of planning permission and conditional approval is recommended. Given that planning permission has previously been granted for a similar proposal, the determination of this application should primarily consider whether the changes between this ancillary accommodation and that approved previously are acceptable.

## **CONDITIONS**

1. The date of commencement of the development shall be taken as 14th June 2017 when the application was registered by the Local Planning Authority.
2. The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice.
3. The accommodation hereby permitted shall be used for purposes ancillary to 3 Hayne Barton Cottages and shall at no time be let, sold or otherwise be disposed of as a separate unit.

## **REASONS FOR CONDITIONS**

1. In order to establish a legal commencement date for the development to enable the development to be monitored by the Local Planning Authority.
2. For the avoidance of doubt and in the interests of proper planning.
3. To safeguard the character and appearance of the building in accordance with: Local Plan Part 3 (Development Management Policies) DM2 and DM13.

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

The proposed erection of ancillary accommodation (revised scheme) in the form of a detached pitched roof timber frame, timber clad outbuilding is considered to be policy supportable. The accommodation will provide the applicant with the required additional living space to be used in association with the main dwelling which will be accessible by people less abled such as those who cannot climb stairs to access the main sleeping accommodation in the main house. The revised site location plan shows that the proposed accommodation has been moved from the location shown in the previously approved scheme so that it is further from the boundary with the neighbouring property. The proposal is considered to have an acceptable relationship with the amenities of the neighbouring properties. The scale and design of the proposed ancillary accommodation is typical of many domestic outbuildings and is considered to respect the character, scale, design and setting of the main dwelling. As such there are no outstanding issues with the proposal and conditional approval is recommended. The proposal is considered to comply with Policies COR18 of the Mid Devon Core Strategy (Local Plan Part 1), DM2 and DM13 of the Mid Devon Local Plan Part 3 (Development Management Policies) and the National Planning Policy Framework.

Application No. 17/01251/FULL

Grid Ref: 295538 : 112670

Applicant: Mr A Busby, Mid Devon District Council

Location: 10 Market Walk  
Bampton Street  
Tiverton  
Devon

Proposal: Installation of new shop front

Date Valid: 2nd August 2017



**Application No. 17/01251/FULL**

## **RECOMMENDATION**

Subject to the receipt of no representations raising new issues by 12<sup>th</sup> September 2017, the Head of Planning, Economy and Regeneration be delegated authority to grant permission with conditions.

## **PROPOSED DEVELOPMENT**

The application is for the replacement shop front for a retail unit in Market Walk within the town centre and conservation area.

The proposal is to replace the existing shopfront which is set back from the building frontage with a new shop front aligned along the frontage and in line with the other units in Market Walk. The canopy and fascia which runs along the frontage of the units would be retained with the timber shop front itself replaced with a new powder coated aluminium shopfront over dwarf brickwork.

## **APPLICANT'S SUPPORTING INFORMATION**

Design and Access Statement

## **PLANNING HISTORY**

16/01368/FULL - Withdrawn 25th October 2016

Change of use of No 10 Market Walk from retail (A1) to restaurant/cafe (A3) use and internal and external alteration to 10 & 11 Market Walk to provide an additional and improved restaurant/cafe

## **DEVELOPMENT PLAN POLICIES**

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

COR2 - Local Distinctiveness

COR13 - Tiverton

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

DM2 - High quality design

DM18 - Fronts of shops and business premises

DM27 - Development affecting heritage assets

## **CONSULTATIONS**

TIVERTON TOWN COUNCIL - 22nd August 2017 - Support

## **REPRESENTATIONS**

None - This report is subject to any consultation responses that may be received as the consultation period has not yet expired.



## **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

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

### **Design and effect on the Conservation Area**

#### **1. Design and effect on the Conservation Area**

Policy COR13 seeks investment to maintain and increase the vitality and viability of Tiverton town centre.

Policy COR2 seeks high quality sustainable design that reinforces the character of Mid Devon's built environment.

Policy DM2 seeks high quality development that shows a clear understanding of the site, its wider context and surrounding area and makes a positive contribution to local character, including heritage assets.

Policy DM18 permits the replacement of shop fronts where these are well-proportioned and suited to the character of the building and surrounding street scene and well designed.

Policy DM27 requires development likely to affect heritage assets to consider their significance, character and setting.

The proposal is to replace an existing dark stained timber shop front with small divided windows with a new powder coated aluminium shopfront which improves the view into the shop. The existing shopfront is set back from the frontage and does not make the best use of the available shop space. The new frontage would be re-aligned with the frontages of the shops to either side and in the remainder of the row of shops. The replacement shop front would not only improve the appearance of the frontage but also improve the functionality of the shop.

The alterations are considered to improve the vitality and viability of the town centre in accordance with policy COR13. In addition, the alterations are considered to improve the appearance of the shop and contribute positively to the street scene, in accordance with policies COR2 of the Mid Devon Core Strategy, DM2 and DM18 of the LP3 DMP.

The Mid Devon conservation officer has no comments to make on the proposal and it is not considered that the development will harm the conservation area, in accordance with policies DM2 and DM27 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.

## **REASONS FOR CONDITIONS**

1. In accordance with the provisions of Section 51 of the Planning and Compulsory Purchase Act 2004.

2. For the avoidance of doubt and in the interests of proper planning.

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

The current proposal is acceptable in that the alterations are considered to improve the vitality and viability of the town centre, improve the appearance of the shop and contribute positively to the street scene. In addition, it is not considered that the development will harm the conservation area. The development is considered to comply with the following policies: COR2 and COR13 of the Mid Devon Core Strategy (Local Plan Part 1) and DM2, DM18 and DM27 of the Local Plan 3 (Development Management Policies).

Mrs Jenny Clifford  
Head of Planning and Regeneration

## Major Applications with no Decision

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

Item No.	Weeks	TARGET DATE	REFVAL	PROPOSAL	LOCATION	NAME	Expected Decision Level	
							Delegated	Committee
1	1	05/12/2017	17/01346/MOUT	Outline hybrid planning application for the erection of 200 dwellings together with associated infrastructure and public open space and Full permission for portion of Link Road (land comprising southern portion of Phase 1 of North West Cullompton Urban Extension)	Land at NGR 301536 107900 North of Tiverton Road Cullompton Devon	Ms Tina Maryan	COMM	
2	2	03/11/2017	17/01298/MFUL	Erection of 2 commercial buildings and formation of commercial parking yard areas with associated access works including formation of right turn lane on the B3181	Land and Buildings at NGR 305188 112386 (Hitchcocks Business Park) Carlu Close Uffculme Devon	Mr Daniel Rance	DEL	
3	3	01/11/2017	17/01178/MFUL	Erection of 200 dwellings, formation of new access, provision of phase of link road, primary school site, open space, landscaping and associated works	Land at NGR 302103 108277 (West Of Willand Road) Cullompton Devon	Ms Tina Maryan	COMM	COMM
4	3	27/10/2017	17/01179/MFUL	Erection of 29 affordable dwellings, together with associated landscaping, highways and drainage infrastructure	Land at NGR 303340 110341 (Land off Silver Street) Willand Devon	Miss Hannah Cameron	DEL	
5	5	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
6	7	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	COMM	COMM
7	7	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	
8	8	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

<i>Item</i>							<i>Expected Decision Level</i>	
<i>No.</i>	<i>Weeks</i>	<i>TARGET DATE</i>	<i>REFVAL</i>	<i>PROPOSAL</i>	<i>LOCATION</i>	<i>NAME</i>	<i>Delegated</i>	<i>Committee</i>
9	9	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
10	9	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	COMM	COMM
11	9	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
12	10	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
13	11	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	
14	12	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
15	13	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
16	17	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
17	24	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
18	26	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

<i>Item</i>							<i>Expected Decision Level</i>	
<i>No.</i>	<i>Weeks</i>	<i>TARGET DATE</i>	<i>REFVAL</i>	<i>PROPOSAL</i>	<i>LOCATION</i>	<i>NAME</i>	<i>Delegated</i>	<i>Committee</i>
19	30	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
20	33	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
21	40	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
22	42	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
23	48	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 Upplowman Road Tiverton Devon	Mrs Christie McCombe	COMM	COMM

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## LIST OF APPEAL DECISIONS FROM 30.06.17 to 24.08.17

Application No	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
16/00180/FULL	Erection of 2 dwellings following demolition of existing dwelling (Revised Scheme)	19 Exeter Road Silverton Exeter EX5 4HX	Subject to the provision of a S106 Del	Committee Decision	Refuse permission	Written Representations	Appeal Dismissed

### Summary of Inspectors Comments

DISMISSED at Appeal for the following reasons:

Impact on Conservation Area:

Loss of front boundary to create access and provide adequate visibility

Proposed scale, mass, design and parking arrangements does not reflect local character and distinctiveness in the adjacent Conservation Area

Proximity of proposed development adjacent to existing boundary wall would appear squashed

Both dwellings due to their scale and tight grouping would result in a loss of views towards the church

Other Matters

New neighbouring development (Newcourt Rd) does not provide a justification for similar development on this site.

15/00171/UCU	Appeal against	Land at NGR 310656 113326 (Hillmoor) Culmstock Devon				Enf Public Inquiry	Withdrawn
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### Summary of Inspectors Comments





Planning Committee  
6<sup>th</sup> September 2017

**Application No. 17/00567/FULL**

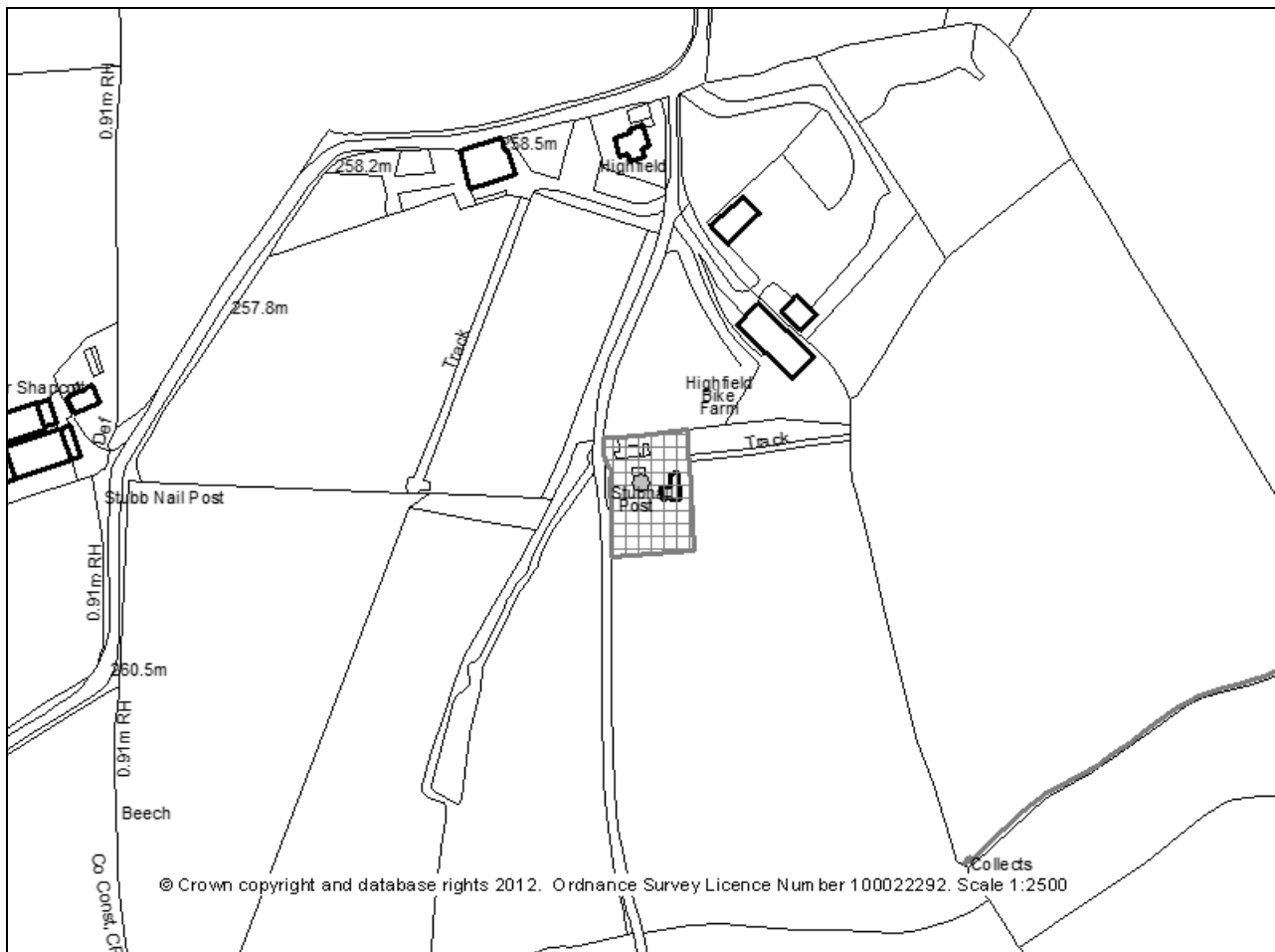
Grid Ref: 286077 : 123613

Applicant: Miss H Sparkes

Location: Land and Buildings at NGR 286077 123613 (Stubnail Post)  
Oakford  
Devon

Proposal: Variation of condition (1) of Appeal decisions A & B: APP/Y1138/C/10/2139560 & 2139561 and Appeal decision C: APP/Y1138/A/10/2133187 granting temporary planning permission to allow permanent residence of the site

Date Valid: 6th April 2017



**RECOMMENDATION**

Grant permission subject to conditions.

**COUNCILLOR STANLEY AND COUNCILLOR MOORE HAVE REQUESTED THAT THIS APPLICATION BE DETERMINED BY THE PLANNING COMMITTEE FOR THE FOLLOWING REASONS:**

1. To consider whether the provision of a permanent private gypsy and traveller site is in accordance with planning policy.
2. To consider whether the applicants meet the definition of a Gypsy/Traveller.

**PROPOSED DEVELOPMENT**

This application relates to an existing site currently used as one traveller pitch on a temporary basis. The application has been submitted as a variation of condition application and seeks permanent provision of a traveller pitch on the site.

Planning permission was initially allowed at appeal in 2010, with the Inspector granting a temporary planning permission for a period of three years and restricting the site to occupation by gypsies and travellers but not a personal permission as the applicants and their children at that time did not have any local connections. A further 5 year temporary permission was approved in 2014 with a personal permission to allow occupation of the site by the current applicant and her family (same family as in 2010).

The site comprises a single pitch incorporating one static caravan, stationed toward the eastern boundary of the site. In the appeal decision notice in 2010 the Inspector limited the type of caravans to be placed on the site. A condition was imposed requiring that the site has no more than two caravans placed on it, only one of which could be a static type caravan which meets the relevant definition of caravan. The appeal decision also states that not more than one commercial vehicle (not exceeding 3.5 tonnes in weight) could be kept on the site. No limit was imposed regarding the number of cars that could be kept on the site.

In addition to the static caravan, at the time of the officer site visit there was also a touring type caravan on site as well as a truck. There is also an amenity block (former barn) and a further former agricultural building used for storage. There was also a porch/room attached to the western side of the static caravan. The area between the static caravan and amenity buildings is gravelled and there are two large agricultural style gates across the entrance to the site. The bank that pre-existed which separates the site from the neighbouring field and adjoining lane (also within the applicant's ownership) has on the southern and western boundaries been planted with willow whips. These have now become established and they provide a good visual screen to the site other than when viewed from the north (access lane) from which the limited views into the site remain.

The living accommodation is connected to a septic tank. Details of the location of the septic tank are indicated on the proposed plans. It is stated that surface water is controlled through the use of soakaways.

**APPLICANT'S SUPPORTING INFORMATION**

Design and Access Statement

Confidential information regarding the travelling history of the applicant, letters from school and supporting letters from other travellers

## **PLANNING HISTORY**

10/00298/FULL - REFUSE date 23rd June 2010

Change of use of agricultural land to allow the siting of 1 permanent pitch for the use of gypsies & travellers including conversion of barn to form amenity block, installation of solar panels to barn and erection of wind turbine

(APPEAL ALLOWED 18.05.11 - PLANNING PERMISSION GRANTED)

14/00779/FULL - PERMIT date 11th July 2014

Variation of condition (1) of Appeal decisions A & B: APP/Y1138/C/10/2139560 & 2139561 and Appeal decision C: APP/Y1138/A/10/2133187 granting temporary planning permission to allow residence of the site for a further 5 years

14/01463/FULL - PERMIT date 17th December 2014

Erection of an agricultural building for the storage of logs and agricultural machinery

17/00567/FULL - PCO date

Variation of condition (1) of Appeal decisions A & B: APP/Y1138/C/10/2139560 & 2139561 and Appeal decision C: APP/Y1138/A/10/2133187 granting temporary planning permission to allow permanent residence of the site.

## **DEVELOPMENT PLAN POLICIES**

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

COR1 - Sustainable Communities

COR9 - Access

COR18 - Countryside

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

AL/DE/7 - Gypsy and Traveller Pitches

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

DM2 - High quality design

## **CONSULTATIONS**

**Oakford Parish Council** - 24th July 2017 - We have undertaken a short visit to the site in question and spoken to one of the occupants .....(content redacted) partner who is working away and then spoken to the residents at the top of the lane, Mr and Mrs Hickman, who showed similar concerns to that of those raised by Mrs Goodwin. Their worries centre on the land becoming available to more than just one family of travellers and the uses the land might be put to/businesses set up. However, the resident assured us that they had no intention to share the land with other families and so it is our opinion that both sides could be satisfied, if you were so minded, by the granting of permanent right of residence on the land which would be for this family only and for their tenure only. Once they leave, the permission should lapse with them.

**Natural England** - 26th April 2017 - Thank you for your consultation.

Natural England currently has no comment to make on the variation of condition 1.

Should the proposal be amended in a way which significantly affects its impact on the natural environment then, in

accordance with Section 4 of the Natural Environment and Rural Communities Act 2006, Natural England should be

consulted again. Before sending us any further consultations regarding this development, please assess whether the

changes proposed will materially affect any of the advice we have previously offered. If they are unlikely to do so,

please do not re-consult us.

**Environmental Health** - 18th April 2017 -

Contaminated Land I have no objections to this proposal RKH 18/04/17

Air Quality I have no objections to this proposal RKH 18/04/17  
Environmental Permitting I have no objections to this proposal RKH 18/04/17

Drainage I have no objection to these proposals IRW 11.4.17

Noise & other nuisances I have no objection to these proposals IRW 11.4.17

Housing Standards No comment TW 10.4.17

Licensing No Comments JT 10/4/17

Food Hygiene Not applicable AN 11.04.17

Private Water Supplies Not applicable AK 18.04.17

Health and Safety I have no objection to this proposal enforced by HSE. AN 11.4.17

## **REPRESENTATIONS**

7 letters of objection have been received. The points raised are summarised below:

- If the applicants move on then there would remain a permanent pitch;
- The applicants have a private right of access and any commercial use of this private right of access would be unacceptable to owners of the private right of way;
- A traveller that stops travelling for educational reasons is not allowed to live on a traveller site, unless they travel several times a year;
- the site is not in a location that is acceptable for a traveller site;
- The perimeter planting has changed very little in last 7 years;
- Number of vehicles to be parked on site must be limited;
- Increased activities and traffic movements along a private road;
- Granting permission would set a precedent regarding other sites;
- Current application should not be submitted until current permission ends;
- Restrictions regarding the parking of vehicles have been ignored and should be enforced;
- If permitted as a permanent travellers pitch this would lead to an application for a permanent residence;
- No evidence that applicants meet definition of Traveller;
- It is an unsustainable location;
- Access to the site is difficult;
- Septic tank not shown on plans;
- If permanent permission is granted then MDDC will lose one more travellers site as residents are static;
- Inspector previously found site was not a preferred site as was not compatible with sustainability criteria;
- No bus service between Bampton and South Molton, school age children will need to be driven to school requiring additional car journeys;
- Not compliant with policy AL/DE/7 as not within 30 minutes of hospital or secondary school by public transport;
- MDDC should be providing pitches through the Tiverton Eastern Urban Extension and North west Cullompton developments in accordance with policy;
- There are no personal or over riding educational, health or old age needs to be at this particular site;
- Perceived lack of availability of alternative sites is contrary to current policy

12 letters of support have been received. The points raised are summarised below:

- Confirmation that applicants do travel for work;
- Supporter assists the family by maintaining the garden and feeding animals when they are away travelling;
- Family are very involved with local school, community and clubs;

- There are no alternative sites in the district on which the family could be re sited;
- Refusal of the application would be disruptive and damaging to the children's education;
- Well respected members of the traveller community;
- The applicants have lived in traveller communities for more than 10 years and their work requires them to travel on a regular basis and to have larger vehicles;
- Use of the site as a base has little or no impact on others;
- Character references for the family

## **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

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

- 1. Policy**
- 2. Sustainability of the site and its location**
- 3. Can the need be met elsewhere in Mid Devon**
- 4. Personal circumstances**
- 5. Visual impact**
- 6. Other matters including: Drainage, Access, Impact on the settled community**
- 7. Planning balance**

### **1. Policy**

The Development Plan in force consists of the Mid Devon Core Strategy (Local Plan Part 1), Mid Devon Allocations and Infrastructure Development Plan Document adopted in October 2010, and the Local Plan Part 3 (Development Management policies) adopted October 2013. The Development Plan sets out the following policies in respect of Gypsy/Traveller sites and development in the countryside:

The Mid Devon Core Strategy (Local Plan Part 1), in its Policy COR1, sets the distribution of new development to meet sustainability objectives; with Policy COR12 concentrating development principally on the 3 main towns within the District and Policy COR9 seeking to ensure that new development reduces the need to travel by car.

Development outside recognised settlements is further strictly controlled by Policies COR13 to COR 17: Policy COR18 ('Countryside') provides a list of appropriate rural developments which are subject to detailed criteria- based development control policies, and which are set out more fully in policy AL/DE/7.

Policy AL/DE/7 of the Mid Devon Allocations and Infrastructure Development Plan Document sets out the situations in which applications for private gypsy and traveller pitches will be permitted. It states that pitches will be permitted provided that the need cannot reasonably be met on another site within Mid Devon which has consent or is allocated for gypsy and traveller pitches, that the site is within 30 minutes travel by means of public transport, walking and/or cycling of a hospital and secondary school and that occupation is limited to those meeting the definition of Gypsies and Travellers in the relevant national policy - currently Planning Policy for Traveller Sites (PPTS). Policy DM2 of Local Plan Part 3 (Development Management Policies) refers to development proposals involving the construction of new buildings seeking to achieve energy and water efficiency and overall sustainable design.

Relevant Government Guidance in this instance is the National Planning Policy Framework (NPPF) and Planning Policy for Traveller Sites (PPTS). The NPPF states that it should be read in conjunction with the PPTS and the PPTS states that its aim is to 'ensure the fair and equal treatment for travellers, in a way that facilitates the traditional and nomadic way of life of travellers while respecting the interest of the settled community'. There is a further government document 'Designing Gypsy and Traveller sites; good practice guidance' which has been considered in relation to this site.

The PPTS states that planning law requires that applications for planning permission must be

determined in accordance with the development plan, unless material considerations indicate otherwise. It goes on to say that applications should be assessed and determined in accordance with the presumption in favour of sustainable development and the application of specific policies in the National Planning Policy Framework and this planning policy for traveller sites.

It requires that Local planning authorities should consider the following issues amongst other relevant matters when considering planning applications for traveller sites:

- . the existing level of local provision and need for sites
- . the availability (or lack) of alternative accommodation for the applicants
- . other personal circumstances of the applicant
- . that the locally specific criteria used to guide the allocation of sites in plans or which form the policy where there is no identified need for pitches/plots should be used to assess applications that may come forward on unallocated sites
- . that they should determine applications for sites from any travellers and not just those with local connections

It also requires that when considering applications, local planning authorities should attach weight to the following matters:

- a) effective use of previously developed (brownfield), untidy or derelict land
- b) sites being well planned or soft landscaped in such a way as to positively enhance the environment and increase its openness
- c) promoting opportunities for healthy lifestyles, such as ensuring adequate landscaping and play areas for children
- d) not enclosing a site with so much hard landscaping, high walls or fences, that the impression may be given that the site and its occupants are deliberately isolated from the rest of the community

All these matters are therefore considered below:

## **2. Sustainability of the site and its location**

In terms of the location of the site, policy COR18 specifically states that sites for occupation by persons falling within the definition of a 'gypsy or traveller' are acceptable in principle in the open countryside.

The planning Inspector who dealt with the appeal in 2010 dealt with the issue of sustainability of the site in some detail. Overall he felt that the site did not score particularly highly in terms of accessibility and is not compatible with the principles of sustainability as espoused in local and national planning policy. Since that time, the Authority has adopted its Allocations and Infrastructure Development Plan Document (DPD), including policy AL/DE/7 as described in the policy section of this report. The Inspector's report into the soundness of this document found that the policy acts appropriately with the other allocations in the DPD to manage the location and impact of the required pitches and that the requirement that sites must be within 30 minutes non-car travel time from a hospital and secondary school is reasonable in the context of the District and consistent with sustainability principles.

In this instance, although travel to a secondary school (South Molton) could be made through the use of the secondary school bus, travel times to a hospital would exceed 30 minutes by non-car means. The nearest hospitals to the site are those in Tiverton, Exeter and Barnstaple; only those in Exeter and Barnstaple offer a full range of services including and Emergency Department (Tiverton only has a minor injuries department).

It is understood that the bus route along the B3227 from Bampton to South Molton has now ceased, so in order to get to a hospital, or a doctors surgery, it is likely that it would be necessary to travel by car. Accordingly the application site fails to meet with the sustainability test in Policy AL/DE/7. This is the conclusion that the previous Appeal Inspector came to, however, when balancing the lack of sustainability against other mitigating factors and material considerations the

appeal was allowed.

### **3. Can the need be met on another pitch or site in Mid Devon?**

Where a site is found to be unsuitable in terms of sustainability, it is necessary for the LPA to go on to consider the need for and current levels of supply of pitches in the district. The latest Gypsy and Traveller Accommodation Assessment (GTAA) was carried out in 2014 and demonstrates the need across the district until 2034. This assessment forms the evidence base for the Local Plan Review which was submitted to the Government in March 2017 and which is currently awaiting public examination. The 2014 GTAA indicates that in Mid Devon there is an additional need of 35 pitches between 2014 and 2034, please refer to the table below:

Twenty year Gypsy and Traveller pitch needs summary 2014 - 2034							
	Base numbers 2014	Additional need 2014-2019	Additional need 2019-2024	Additional need 2024-2029	Additional need 2029 - 2034	Additional need 2014-2034	Numbers as at 2034
Mid Devon	53	15	6	7	7	35	88

The LPA have made provision for previously identified need for gypsy and traveller pitches within allocated sites in the AIDPD, however the latest GTAA indicates that further provision is required as identified in the table above. The AIDPD aimed to meet the strategic requirement for Gypsy and Traveller pitches through allocation of specific sites, including through the Tiverton Eastern Urban Extension and the north west extension of Cullompton. Parts of the Tiverton EUE have progressed to outline application stage, however progress has been slower than expected or desired and there is currently no certainty regarding the timeframe for the provision of the gypsy and traveller pitches that are required as part of this development. Likewise, recently two outline planning permissions have been received with regards to the north west Cullompton development area. These applications are at a very early stage in the planning process and there is no indication of the timeframe within which the policy allocated gypsy and traveller pitches may be provided.

Policy AL/DE/7 states Gypsy and Traveller sites in the open countryside should only be permitted where allocated sites will not be available to the prospective occupiers in a reasonable timescale. These same allocated sites were referred to during the 2010 planning appeal, following which the applicants were granted temporary permission. They were also referred to in 2014 when the applicant's applied for further temporary permission to remain on the site. The site has now been in use as a travellers site by the applicants for 7 years, during which time none of the allocated sites have been developed and therefore no pitches have been provided. Neither has Mid Devon District Council met the policy aspiration of providing a public site for Gypsy and Traveller pitches (AL/DE/8). As the applicant's have now resided on the site for 7 year and there remains uncertainty regarding the timescale for the provision of pitches through allocated sites, it is considered that in this regard the application is in accordance with policy AL/DE/7 and should be permitted. The LPA are unaware of any alternative sites within the district that may be available to the applicant's now or in the near future. The ongoing uncertainty regarding the timescale of the provision of the currently allocated sites is compounded by the 2014 GTAA which identifies additional need within the district.

### **4. Personal circumstances**

The Appeal Inspector for appeal 10/00298/FULL accepted that the applicant's are New Travellers. In 2015 the definition of gypsies and travellers was amended. The definition of gypsies and travellers for the purposes of planning policy means:

Persons of nomadic habit of life whatever their race or origin, including such persons who on

grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily, but excluding members of an organised group of travelling showpeople or circus people travelling together as such.

The applicant's have not indicated that their way of life has changed significantly since the appeal in 2010 and further temporary permission in 2014. The applicant's still claim to travellers and the current application has received a number of letters of support that pertain to the travelling lifestyle of the family. The travelling lifestyle of the applicants is also confirmed by the school that their children attend.

The LPA consider the applicant's to comply with the definition of gypsies and travellers within the DCLG 'Planning Policy for Traveller Sites', as amended in 2015.

Planning policy for travellers sites (para 11) states that Traveller sites should be 'sustainable economically, socially and environmentally' and therefore ensure that Local Planning Authority policies 'promote peaceful and integrated co-existence between the site and settled community...ensure that children can attend school on a regular basis...provide a settled base that reduces the need for long-distance travelling and possible environmental damage caused by unauthorised encampment...reflect the way in which traditional lifestyles can contribute to sustainability.'

Although 7 letters of objection were received regarding the application, there were also 12 letters of support, a number of which refer to the applicant's and their family having integrated successfully into the local community, including with a local school where the children attend regularly. Officers are mindful of the fact that the applicant has established a life on this site over a 7 year period with peaceful and integrated co-existence between the occupants and the settled community. The planning department have received no complaints relating to this site in the last 7 years until the current application was submitted. In 2010 the Inspector found no mitigating health or educational need of any of the family members that merited the granting of permanent permission at that time. Since then, the family have become integrated with the local community, have established a settled base and the children regularly attend school. Being required to vacate the current site and re establishing a base for the family elsewhere could have an adverse impact on the children's education as they have become settled within the community, there is also currently no other sites within Mid Devon to accommodate the family. As there are family circumstances to be taken into account when assessing this application it is considered reasonable and justified for the Local Planning Authority to impose a personal condition restricting the occupation of the site to the applicant and their family (dependents).

## **5. Visual impact**

The site is bound on three sides by a bank and on the southern and western boundaries this has been planted with Willow whips which have now become established and form a good screen between the site and the adjacent field and track. There remain some views into the site on approach from the highway to the north, close to the access gates. At the time that the case officer last visited the site, the site was in a relatively tidy condition and it could not be said that the site was detracting from the overall visual amenity of the surrounding area. It is considered that the current use of the site as a traveller pitch does not adversely affect the character or appearance of the surrounding countryside or the residential amenity of the limited nearby residential properties. As the current and proposed use of the site does not have an adverse impact on the character of the area or an adverse impact on the privacy or amenity of nearby residential properties, the proposal is considered to be in accordance with policy DM2 Local Plan Part 3 (Development Management Policies).

## **6. Other matters including: Drainage, Access, Impact on the settled community**

The application states that surface water is managed through the use of soakaways and that foul waste is connected to an existing septic tank. The Design and Access statement states that the septic tank is shown on the submitted plans. It does not appear to be shown and revised plans



have been requested that show the location of the septic tank.

The Environment Agency have provided standing advice on this application which states that in flood zone 1 a change of use to a highly vulnerable use (this includes caravans for habitable use) does not require any consultation with the EA. Consequently it is considered that subject to conditions requiring that suitable surface water and foul drainage is in place prior to occupation, there are no grounds to refuse the application with regards to drainage.

Environmental Health have raised no concerns regarding the suitability of the site as a travellers site.

The Highway Authority have provided no specific comments regarding this application. The Highway Authority referred to Standing Advice when the application for a further temporary permission was considered in 2014. There are no proposed changes to the access into the site from the private road/track that connects to the public highway. the site access is considered to be a suitable width and visibility when exiting the site is acceptable. No additional use of the public highway or the private road/access is proposed as part of this application.

The PPTS states that 'Local planning authorities should ensure that sites in rural areas respect the scale of, and do not dominate the nearest settled community, and avoid placing an undue pressure on the local infrastructure.' Concern has also been expressed that approving one pitch here may lead to further pitches being approved on the site in due course.

There are no other known travellers sites in the Oakford parish. The application seeks permission for a single family pitch. The provision of one permanent travellers pitch on this site would not have a dominating impact upon the settled community in the area or place undue pressure on local infrastructure. The occupants of the site are considered to have integrated well into the local community.

## **7. Planning balance**

Local Planning Authorities, as public bodies, are subject to duties imposed by the Human Rights Act 1998 and are therefore required to act compatibly with the rights conveyed by the European Convention on Human Rights (ECHR), which was enacted by the Human Rights Act 1998.

In particular, Article 8 of the Convention provides that:

1. Everyone has the right to respect for his private and family life, his home and his correspondence.
2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

These rights would be engaged should the application be refused or only allowed for a temporary period. Article 8 relates to the right to respect for private and family life and as conferred in legal judgements, implies a balancing exercise at Article 8(2) to be weighed against the wider public interest.

The applicant and their family currently occupy the site and have done so for approximately 7 years. The applicant and partner have been found to meet the definition of a gypsy and traveller as set out in the 2015 amended PPTS. This report acknowledges that the site is not considered to be highly sustainable however this needs to be balanced against the needs of the applicant to provide a settled base for the family when not travelling. In this instance the site is considered to have limited impact on the visual amenity of the area, the applicant and family have become integrated with the local community and the children present on the site regularly attend school. Additionally the Council has not sufficiently progressed with the provision of a public gypsy and traveller site nor with the provision of gypsy and traveller sites through the delivery of development

of allocated sites. As a result the Council has no alternative site upon which the applicant and their family could be accommodated now or within a reasonable timescale. On balance it is considered that the needs of the applicant (and family) outweigh any harm associated with the lack of sustainability of the site and therefore it is recommended that planning permission is approved. As the needs of the applicant(s) refer to the requirement to provide a secure base for the family, particularly during the formal education of their children who are integrated into the local community and regularly attend school locally, it is considered appropriate to impose a personal permission on the site that provides for a permanent traveller pitch with the occupation restricted to the applicant and dependents.

## **CONDITIONS**

1. The site shall not be occupied by any persons other than Mr Hughes or Miss Sparkes (current occupiers of the site) and their dependent family. This permission shall provide for only one traveller pitch to be occupied by a single family unit.
2. The residential use hereby permitted shall be restricted to the stationing of no more than 2 caravans at any time (of which no more than 1 shall be a static caravan or mobile home) on the area of hardstanding in the north western corner of the application site. Any caravan on the site must meet the definition in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968. ANY caravans positioned on the site shall be capable of being towed on the public highway, in accordance with the relevant Highways Act legislation, without division into separate parts. The remainder of the land within the applicant's ownership shall not be used for the stationing of caravans or the parking of vehicles associated with the residential use.
3. No more than one commercial vehicle, not exceeding 3.5 tonnes in weight, shall be kept on the land for use by the occupiers of the caravans hereby permitted, parked in accordance with the previously agreed details under Condition 5 of appeal APP/Y1138/C/10/2139560 and 2139561.

## **REASONS FOR CONDITIONS**

1. The Local Planning Authority have permitted the application based on the lack of alternative gypsy and traveller pitches within Mid Devon and due to the personal circumstances relating to the applicant and their family. The imposition of a personal consent is therefore considered to be appropriate and to comply with national planning policy for travellers sites as well as Policy DM2 of Local Plan Part 3 (Development Management Policies).
2. For the avoidance of doubt and to concur with the nature of this application having regard to the submitted details and to minimise the visual impact of the development in accordance with Policy DM2 of Local Plan Part 3 (Development Management Policies).
3. For the avoidance of doubt and to concur with the nature of this application having regard to the submitted details and to minimise the visual impact of the development in accordance with Policy DM2 of Local Plan Part 3 (Development Management Policies).

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

It has been concluded that the applicant(s) meet with the definition of a Gypsy and Traveller and that they have a need for appropriate accommodation. The application site is not considered to be a sustainable location and as such the application cannot be considered to be compliant with policy AL/DE/7 of the Allocations and Infrastructure Development Plan Document. However, the applicant and family have resided on the site for 7 years and have become integrated with the local community. The applicants children regular attend a local school. The Council has not

sufficiently progressed with the provision of a public gypsy and traveller site nor with the provision of gypsy and traveller sites through the delivery of development of allocated sites. As a result the Council has no alternative site upon which the applicant and their family could be accommodated now or within a reasonable timescale. On balance it is considered that the needs of the applicant (and family) outweigh any harm associated with the lack of sustainability of the site and therefore it is recommended that planning permission is approved. As the site is not considered to comply with policy AL/DE/7, but on balance it is recommended that planning permission be granted, it is recommended that a personal permission being imposed limiting the occupation of the site to the applicant and their family. Taking into account all material considerations the application meets with the requirements of Policies COR1, COR9, COR12 and COR18 of Mid Devon Core Strategy (Local Plan Part 1) and DM2 of Local Plan Part 3 (Development Management Policies).

**Contact for any more information**

Lucy Hodgson – Planning Team Leader  
01884 234905  
[lhodgson@middevon.gov.uk](mailto:lhodgson@middevon.gov.uk)

**File Reference**

Planning File for Application

**Circulation of the Report**

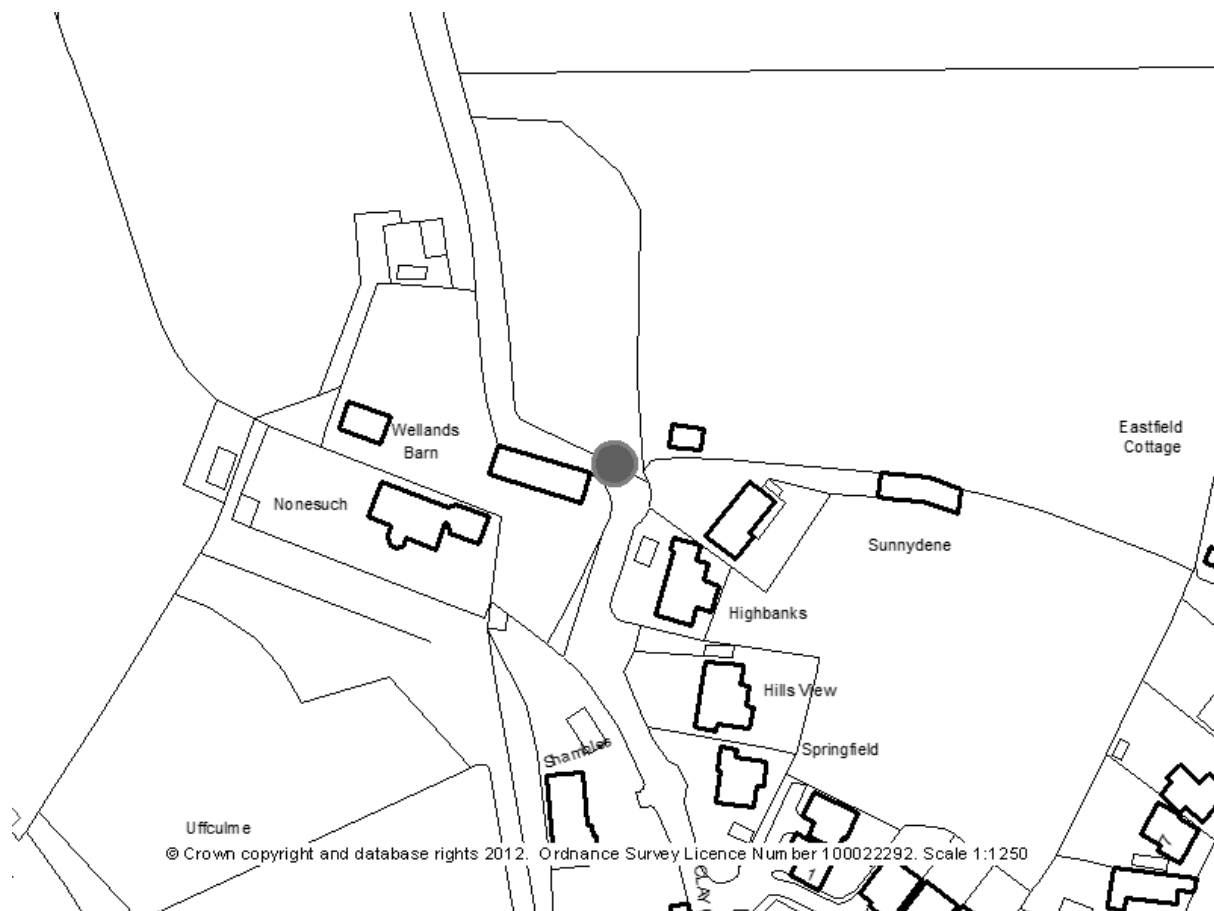
Members of the Planning Committee



**Application No. 17/00016/TPO**

**Grid Ref:** NGR  
306770/113041

**Location:** Land at NGR  
306770/113041  
Clay Lane  
Uffculme



## **PLANNING COMMITTEE – 6<sup>th</sup> September 2017**

### **REPORT OF THE HEAD OF PLANNING AND REGENERATION**

#### **Reason for Report:**

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

#### **RECOMMENDATION**

That the Tree Preservation Order is confirmed

#### **Relationship to Corporate Plan:**

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

#### **Financial Implications:**

None

#### **Legal Implications:**

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

#### **Risk Assessment:**

None

#### **Consultation carried out with:**

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

#### **1.0 DESCRIPTION/SITE HISTORY**

This Tree Preservation Order was made in response to Conservation Notification (Section 211) to fell the tree in question.

#### **2.0 AMENITY EVALUATION**

- 2.1 The tree has good amenity value at the edge of the Uffculme Conservation Area. It is a mature tree located towards the end of the residential area of Clay Lane.

### 3.0 **REPRESENTATION**

#### 3.1 Two objections to the TPO have been made on the following grounds:

The tree threatens property

The tree roots have been damaged

The tree is dangerous

The tree drops debris onto land (including branches)

The tree is messy and unhealthy

#### 3.2 A letter of support for the TPO has been received from Uffculme Allotment Association.

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

#### 4.1 The mature Oak tree has suffered root damage in the recent past due to the widening of the access way. This widening work has not taken into consideration the presence of the tree and has caused some damage to this part of the tree's root system. The tree should have significant roots in other directions to maintain its health and adjust to the damage.

It is noted that the tree has minor dieback in the crown at the time the TPO was made. The tree has not been visited by MDDC Tree Officer since this time and any further decline should be monitored.

There was no obvious sign that the tree was unstable and any deadwood in the crown can be removed without the need for an application. A brief visual tree inspection was carried out by MDDC Tree Officer when determining whether the tree was worthy of protection by TPO or not. Further investigation may be necessary. No arboricultural reasons were identified to justify the removal of the tree.

#### 4.2 The Tree Preservation Order does not serve to stop good management. There is nothing stopping the landowner from applying for future works to the tree should it be required.

#### 4.3 The tree is located in close proximity to the property Wellands Barn but this has been a historical relationship between the property and the tree. If it is deemed necessary to carry out pruning works to maintain adequate clearance an application must be submitted if the Tree Preservation Order is confirmed.

### 5.0 **CONCLUSION**

The Oak tree does merit a Tree Preservation Order. Using the amenity evaluation rating scoring system the tree received a score of 16, with 15 being the benchmark score to merit consideration when making Tree Preservation Orders.

There are some signs of minor dieback in the crown of the tree; this may be related to the root damage which has occurred during the widening of the access.

**Contact for any more information**

Cathy Lynch, Tree Officer  
01884 234304

**Background Papers  
File Reference**

17/00016/TPO

**Circulation of the Report**

Members of the Planning Committee



**Application No. 16/01830/FULL**

**Planning Committee  
6<sup>th</sup> September 2017**

Application No. 16/01830/FULL

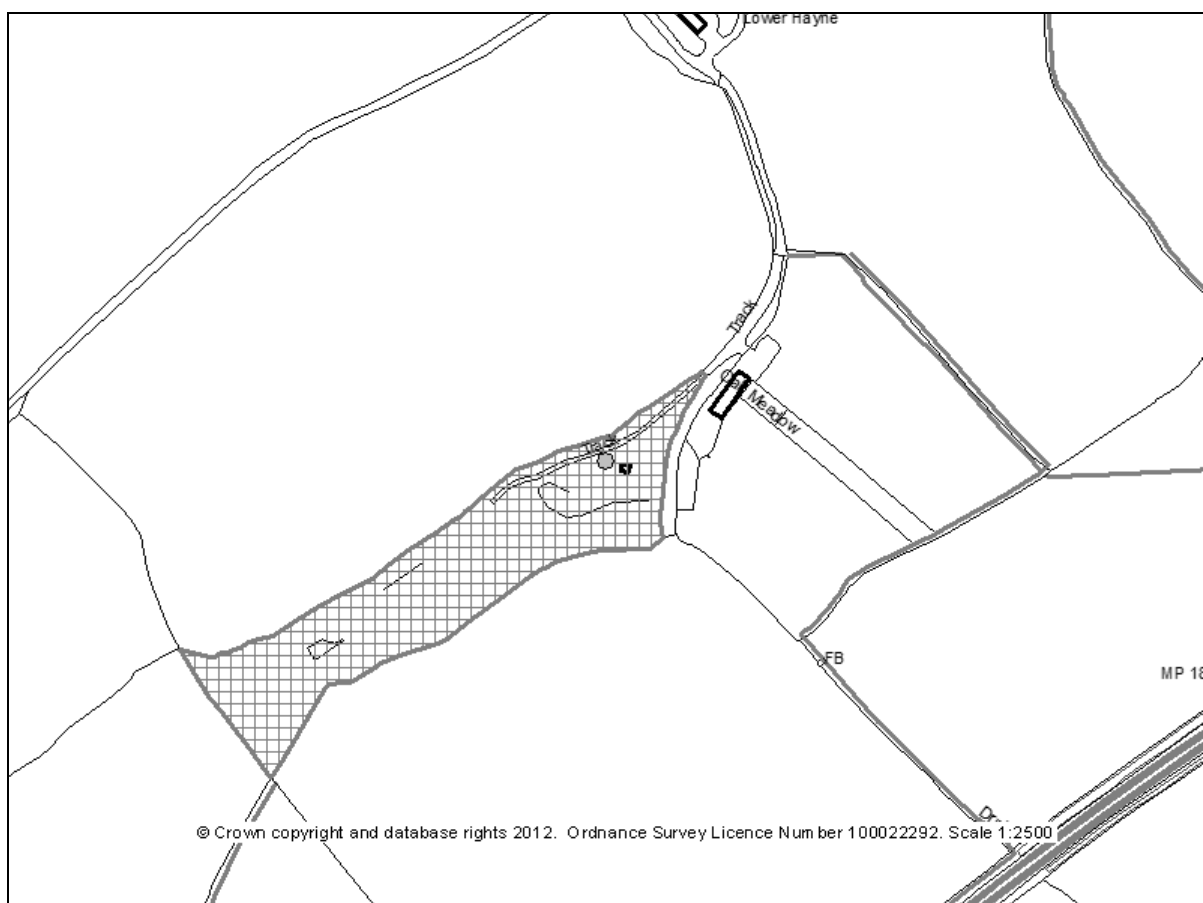
Grid Ref: 296570 : 101388

Applicant: Ms A Perrot

Location: Oak Meadow  
Silverton  
Exeter  
Devon

Proposal: Siting of 1 mobile home, 2 motor homes and a compost w.c.

Date Valid: 1st February 2017



**REPORT OF THE HEAD OF PLANNING AND REGENERATION**

**16/01830/FULL - Provision of 2 additional pitches to provide 1 x additional travelling showperson's pitch and 1 x dependent relatives pitch, erection of a wooden decked entrance to caravan and erection of a compost toilet - Oak Meadow, Silverton, Devon, EX5 4HE**

**Reason for Report**

Councillor Roach has called this application into Planning Committee for the committee to consider the suitability of the site to accommodate additional pitches, impact on the highway and to assess the travelling showperson status of the proposed occupants.

**RECOMMENDATION(S)**

Planning Permission granted subject to conditions as set out in this report.

**Relationship to Corporate Plan**

Managing the environment

**Financial Implications**

Should the application be refused and appeal submitted to the Planning Inspectorate there is a risk of an award of costs against the Local Planning Authority if it were found to have behaved unreasonably.

**Legal Implications**

The refusal of the application, or failing to comply with the planning conditions imposed on any grant of planning permission would result in Enforcement action being undertaken.

**Risk Assessment**

None identified.

**Consultations carried out with**

1. Highway Authority
2. Silverton Parish Council
3. Environment Agency
4. Environmental Health

## **Representations received**

13 letters of representation received. The comments received are summarised below.

- Area is prone to flooding;
- Infrastructure in the surrounding area is inadequate to accommodate further traffic;
- The expansion of the site will have a detrimental impact on nearby residential properties;
- Increased chance of collisions due to state of highways in the local area;
- Hayne Lane is too narrow to accommodate additional traffic;
- There is an 8ft width restriction on the lane which will make access into the site with the proposed caravan difficult;
- Additional noise and air pollution associated with generators;
- Site is unsuitable for development;
- The application does not meet policy requirements;
- Impact on the open countryside;
- Lack of mains facilities makes the site unsuitable to care for others;
- Concerns regarding composting toilets for the occupants;
- Increase in refuse and recycling;
- Difficult to access by emergency services;
- Proposed mobile home should not be on a concrete base;
- Proposed occupants already live on site;
- Concern that surface water run off from the site will contaminate nearby watercourses;
- Wildlife on the site should not be disturbed;
- There are limited passing places on Hayne Lane for pedestrians and vehicles to pass;
- Concern about impact on views from permissive bridleway on the Killerton Estate;
- Impact on Killerton estate has not been assessed

## **1.0 Proposed Development**

- 1.1 The application seeks planning permission for the provision of two additional pitches on the site. One additional pitch for a travelling show person (and family) and one pitch for dependent relatives of the permitted occupants of the site.
- 1.2 The site currently has planning permission for one pitch for a travelling show person which was granted in 2013. The approved pitch is occupied. The proposed development, if approved would result in a total of three pitches on the site, two for travelling show people and 1 for the dependent relatives of the existing permitted occupants of the site.
- 1.3 The new travelling show persons pitch is proposed to consist of two motor homes and the pitch for the dependent relatives would consist of a mobile home. The accommodation proposed to be sited on each of the additional pitches is stated to be in accordance with the definition of a caravan.
- 1.4 The application also proposes the erection of a composting toilet and the erection of a timber access deck which would be physically attached to the outside of the proposed mobile home.

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

Planning Statement  
Plans and elevations  
Soft landscaping plan  
Percolation test results  
Mobile home specifications  
Foul drainage assessment  
Grey water tank  
Wildlife checklist  
Traffic generation Assessment  
Confidential information relating to personal circumstances

## **3.0 PLANNING HISTORY**

Change of use of land from agriculture to 1 pitch to accommodate a Traveller family and 1 pitch for mobile horticultural business  
Ref. No: 09/00340/FULL | Status: Application Withdrawn  
Erection of 1 polytunnel and shed  
Ref. No: 09/01501/FULL | Status: Application Permitted  
Erection of 1 polytunnel, shed, compost toilet and construction of a track  
Ref. No: 09/01503/FULL | Status: Application Permitted  
Change of use of agricultural land to allow the construction of 2 yurts for use by one gypsy and traveller family (Revised Scheme) APPEAL DISMISSED 28.06.11  
Ref. No: 10/00334/FULL | Status: Application Refused  
Change of use of land to one pitch for a travelling show/circus family and the laying of an access track  
Ref. No: 13/01115/FULL | Status: Application Permitted  
Siting of 1 mobile home, 2 motor homes and a compost w.c.  
Ref. No: 16/01830/FULL | Status: Pending Consideration

## **4.0 CONSULTATIONS**

### **HIGHWAY AUTHORITY -8th May 2017 -**

#### **Observations:**

Further to the Highway Authority's original comments and in response to the queries into the validity of the traffic figures, The Highway Authority has been in discussion with the Applicant and the planning officer and the applicant has submitted a number of assessments culminating in a submission dated 27th April which the Highway Authority considers would reflect a more realistic the usage by the applicants..

This indicates that over the existing consented development the proposed development would generate an additional average 2.1 movements per day by vehicles. While this figure is an increase in traffic the quantum of the increase would not be considered as severe over that of the consented development and would still be considered as a reasonable traffic generation for an agricultural field.

Therefore subject to the Planning Authority being able to condition any consent to the personal use of the named applicants and there status of travelling show persons being accepted by the Local Planning Authority, the Highway Authority would withdraw its objection.

#### **Recommendation:**

THE HEAD OF PLANNING, TRANSPORTATION AND ENVIRONMENT, ON BEHALF OF  
DEVON COUNTY COUNCIL, AS LOCAL HIGHWAY AUTHORITY

1. This permission shall ensure for the benefit of the applicants only

REASON: In granting this permission the Local Planning Authority has had regard to the applicant's special circumstances

In their comments as submitted on 10<sup>th</sup> April 2017 the Highway Authority had recommended refusal for the following reason:

1. The road giving access to the site is by reason of its inadequate width, poor horizontal alignment, junctions, are considered unsuitable to accommodate the increase in traffic likely to be contrary to paragraph 32 of the National Planning Policy Framework.

**SILVERTON PARISH COUNCIL - 15th March 2017**

The Parish Council recommends refusal of the above application on the basis that the site already accommodates a number of vehicles and the lane is not suitable for additional traffic. The Parish Council also feels the site is not suitable for additional living accommodation.

**ENVIRONMENTAL HEALTH -**

9th February 2017

Contaminated Land - no objections to this proposal

Air Quality - no objections to this proposal

Environmental Permitting - N/A

Drainage - Due to the numbers of persons moving onto the site I am not happy with the use a composting toilets and I would recommend that a more sufficient drainage system/treatment plant is installed.

Further information is required on the location of the borehole in relation to the siting of the composting toilets and the storage/use of the old compost. This information is required before I can make a recommendation.

Noise & other nuisances - no objection to this proposal.

Housing Standards - Any accommodation that is to be lived in as a main residence needs to comply with the principals of the Housing Health and Safety Rating System, as defined by the Housing Act 2004. Please contact the Private Sector Housing Team for more information.

Licensing This site will need to comply with the requirements of the Caravan Sites and Control of Development Act 1960. NOTE: First Schedule - Cases where a Caravan Site Licence is not required - S10. <http://www.legislation.gov.uk/ukpga/Eliz2/8-9/62/schedule/FIRST>. Food Hygiene Not applicable

**Private Water Supplies**

Informative note

No record is held for the proposal address. However, if a private supply is to be used by more than one property it would be classed as a Regulation 10 small supply, unless a commercial element is involved when it would be classed as a Regulation 9 supply under The Private Water Supply (England) Regulations 2016. In either circumstance a risk assessment and sampling regime will be necessary. The supply must not be used until the Local Authority (Mid Devon District Council) is satisfied that the supply does not constitute a potential danger to human health, including single domestic use.

Please contact Public Health at Mid Devon District Council on completion of proposal.

Health and Safety - no objection to this proposal.

**ENVIRONMENT AGENCY -**

Operational development less than 1ha within Flood Zone 1. No consultation required.

## 5.0 MATERIAL CONSIDERATIONS AND OBSERVATIONS

The main material considerations in the assessment of this application are:

- Policy
- Sustainability of the site and its location including highway implications
- Need and availability of gypsy and traveller and travelling show person pitches in Mid Devon
- Personal circumstances
- Additional structures proposed
- Other matters including drainage, visual impact

### 5.1 Policy

The Development Plan in force consists of the Mid Devon Core Strategy (Local Plan Part 1), Mid Devon Allocations and Infrastructure Development Plan Document adopted in October 2010, and the Local Plan Part 3 (Development Management policies) adopted October 2013. The Development Plan sets out the following policies in respect of Gypsy/Traveller sites and development in the countryside:

The Mid Devon Core Strategy (Local Plan Part 1), in its Policy COR1, sets the distribution of new development to meet sustainability objectives; with Policy COR12 concentrating development principally on the 3 main towns within the District and Policy COR9 seeking to ensure that new development reduces the need to travel by car.

5.1.1 Development outside recognised settlements is further strictly controlled by Policies COR13 to COR 17: Policy COR18 ('Countryside') provides a list of appropriate rural developments which are subject to detailed criteria- based development control policies, and which are set out more fully in policy AL/DE/7.

5.1.2 Policy AL/DE/7 of the Mid Devon Allocations and Infrastructure Development Plan Document sets out the situations in which applications for private gypsy and traveller pitches will be permitted. It states that pitches will be permitted provided that the need cannot reasonably be met on another site within Mid Devon which has consent or is allocated for gypsy and traveller pitches, that the site is within 30 minutes travel by means of public transport, walking and/or cycling of a hospital and secondary school and that occupation is limited to those meeting the definition of Gypsies and Travellers in the relevant national policy - currently Planning Policy for Traveller Sites (PPTS).

5.1.3 Policy DM2 of Local Plan Part 3 (Development Management Policies) refers to development proposals involving the construction of new buildings seeking to achieve energy and water efficiency and overall sustainable design.

5.1.4 Relevant Government Guidance in this instance is the National Planning Policy Framework (NPPF) and Planning Policy for Traveller Sites (PPTS). The NPPF states that it should be read in conjunction with the PPTS and the PPTS states that its aim is to 'ensure the fair and equal treatment for travellers, in a way that facilitates the traditional and nomadic way of life of travellers while respecting the interest of the settled community'. There is a further government document 'Designing Gypsy and Traveller sites; good practice guidance' which has been considered in relation to this site.

5.1.5 The PPTS states that planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. It goes on to say that applications should be assessed and determined in accordance with the presumption in favour of sustainable development

and the application of specific policies in the National Planning Policy Framework and this planning policy for traveller sites.

5.1.6 It requires that Local planning authorities should consider the following issues amongst other relevant matters when considering planning applications for traveller sites:

- . the existing level of local provision and need for sites
- . the availability (or lack) of alternative accommodation for the applicants
- . other personal circumstances of the applicant
- . that the locally specific criteria used to guide the allocation of sites in plans or which form the policy where there is no identified need for pitches/plots should be used to assess applications that may come forward on unallocated sites
- . that they should determine applications for sites from any travellers and not just those with local connections

5.1.7 It also requires that when considering applications, local planning authorities should attach weight to the following matters:

- a) effective use of previously developed (brownfield), untidy or derelict land
- b) sites being well planned or soft landscaped in such a way as to positively enhance the environment and increase its openness
- c) promoting opportunities for healthy lifestyles, such as ensuring adequate landscaping and play areas for children
- d) not enclosing a site with so much hard landscaping, high walls or fences, that the impression may be given that the site and its occupants are deliberately isolated from the rest of the community

These matters are therefore considered below.

## **5.2 Sustainability of the site and its location including highway implications**

5.2.1 In terms of the location of the site, policy COR18 specifically states that sites for occupation by persons falling within the definition of a 'gypsy or traveller' are acceptable in principle in the open countryside.

5.2.2 Since that time, the Authority has adopted its Allocations and Infrastructure Development Plan Document (DPD), including policy AL/DE/7 as described in the policy section of this report. The Inspector's report into the soundness of this document found that the policy acts appropriately with the other allocations in the DPD to manage the location and impact of the required pitches and that the requirement that sites must be within 30 minutes non-car travel time from a hospital and secondary school is reasonable in the context of the District and consistent with sustainability principles.

5.2.3 The nearest hospital (with an accident and emergency department) is in Exeter and the nearest secondary school is understood to be in Broadclyst. As buses to Exeter leave Silverton fairly frequently and school transport is provided to secondary school it is considered that the application can meet the requirements of policy AL/DE/7. There is a Primary School in Silverton which is a couple of miles from the site. An Inspector has previously concluded that occupiers of the site could access the Primary School without the use of a private vehicle.

The sustainability of the site must also be considered alongside the other material considerations to be taken into account assessing the current application.

The Highways Authority were consulted on the application and originally recommended

refusal of the application following concerns about the additional traffic on Lower Hayne Lane that is considered to have a substandard nature due to width and alignment and potential conflict between vehicles and pedestrians as well as visibility concerns at the junction of Lower Hayne Lane and the C417. However, following the receipt of a revised report relating to the calculation of proposed trip generation from the site they have recommended that the application be approved. The Highway Authority have concluded that the additional 2.1 trips per day that would be generated from the additional pitches on the site is acceptable and would not have a severe impact on highway safety. The second planning Inspector who reviewed the site likened the traffic generation from the site to that of a continued agricultural use of the site. The Highway Authority have stated that the additional 2.1 movements per day from the site would not result in traffic generation that would be significantly different to a continued agricultural use of the site. In order to limit the number of traffic movements from the site a condition is suggested that would limit the number of road-going vehicles that are operated from the site, following an approach that was taken on a travellers site elsewhere in the country.

Although the substandard nature of Lower Hayne Lane and the junction with the C417 is acknowledged by the Highway Authority and the Local Planning Authority, taking into account the limited additional movements from the site, the Highway Authority have not objected to the proposed development. The Highway Authority have concluded that the proposed development would have an acceptable impact on the highway and is therefore in accordance with policy DM2 Local Plan Part 3 (Development management Policies).

### 5.3 Need and availability of gypsy and traveller and travelling show person pitches in Mid Devon

5.3.1 Although the site has been considered to be acceptable in terms of sustainability, the LPA have considered the need for and current levels of supply of pitches in the district. The latest Gypsy and Traveller Accommodation Assessment (GTAA) was carried out in 2014 and demonstrates the need across the district until 2034. This assessment forms the evidence base for the Local Plan Review which was submitted to the Government in March 2017 and which is currently awaiting public examination. The 2014 GTAA indicates that in Mid Devon there is an additional need of 35 pitches between 2014 and 2034, please refer to the table below:

Twenty year Gypsy and traveller pitch needs summary 2014 - 2034							
	Base numbers 2014	Additional need 2014-2019	Additional need 2019-2024	Additional need 2024-2029	Additional need 2029 - 2034	Additional need 2014-2034	Numbers as at 2034
Mid Devon	53	15	6	7	7	35	88

Twenty year travelling show person pitch needs summary 2014 - 2034							
Mid Devon		5		6		11	

5.3.2 The LPA have made provision for previously identified need for gypsy, traveller and travelling showperson pitches within allocated sites in the AIDPD, however the latest GTAA indicates that further provision is required as identified in the table above. The AIDPD aimed



to meet the strategic requirement for Gypsy and Traveller pitches through allocation of specific sites, including through the Tiverton Eastern Urban Extension and the north west extension of Cullompton. Parts of the Tiverton EUE have progressed to outline application stage, however progress has been slower than expected or desired and there is currently no certainty regarding the timeframe for the provision of the gypsy and traveller pitches that are required as part of this development. Likewise, recently two outline planning permissions have been received with regards to the north west Cullompton development area. These applications are at a very early stage in the planning process and there is no indication of the timeframe within which the policy allocated gypsy and traveller pitches may be provided.

5.3.3 Policy AL/DE/7 states Gypsy and Traveller sites in the open countryside should only be permitted where allocated sites will not be available to the prospective occupiers in a reasonable timescale. These same allocated sites were referred to during the earlier planning and enforcement appeals relating to the site. The need within the district was not specifically referred to when the 2013 application for a pitch for a travelling show person was considered as the site is considered to be sustainable. However, since that time the latest GTAA has been produced which has indicated that there is now a greater need for gypsy, traveller and travelling show person sites in Mid Devon. Although this application would only provide one additional travelling show person site, it would assist in a small way to the provision of additional pitches in Mid Devon.

5.3.4 Although the site is considered to be sustainable and capable of accommodating the 2 additional pitches proposed it should be noted that since the 2013 permission was granted for a travelling show person pitch on the site none of the allocated sites within the AIDPD have been developed and therefore no additional pitches have been provided. Neither has Mid Devon District Council met the policy aspiration of providing a public site for Gypsy and Traveller pitches (AL/DE/8). The LPA are unaware of any alternative sites within the district that may be available to the applicant's now or in the near future. The ongoing uncertainty regarding the timescale of the provision of the currently allocated sites is compounded by the 2014 GTAA which identifies additional need within the district.

## **5.4 Personal circumstances**

5.4.1 The Appeal Inspector for appeal 11/00107/NUCU accepted that the site is acceptable as a traveller site, however, they concluded that the applicant had not demonstrated that she was a traveller. In 2013 the applicant applied for a pitch on the land as a travelling show person and permission was granted. Since this time the definition of gypsies, travellers and travelling show people has been amended. The definition of a travelling show person for the purposes of planning policy means:

Members of a group organised for the purposes of holding fairs, circuses or shows (whether or not travelling together as such). This includes such persons who on the grounds of their own or their family's or dependants' more localised pattern of trading, educational or health needs or old age have ceased to travel temporarily, but excludes Gypsies and Travellers as defined above.

5.4.2 The applicant has not indicated that her way of life has changed significantly since the grant of planning permission in 2013. The applicant still claims to be a travelling show person.

The permission granted in 2013 under reference 13/01115/Full permitted the applicant to live on the site with her dependents.

5.4.3 One of the pitches proposed in the current application is proposed to provide accommodation for the elderly and dependent parents of the applicant who for health

reasons are no longer able to live completely independently and are going to require additional care (Sue Perrot and Peter Perrot). Mr and Mrs Perrot do not fit within the definition of gypsies, travellers or travelling show people. They are considered to be dependents of the applicant. If there were sufficient accommodation on the site to provide for Mr and Mrs Perrot, as dependent relatives, it is considered that they could live on the site in accordance with the previous grant of planning permission. The applicant wishes to provide the care required by her parents and as her existing accommodation on the site is not adequate to provide suitable living space for her dependents an additional pitch, to contain a mobile home, has been proposed. The mobile home is stated to fall within the definition of a caravan. The mobile home would be accessed via timber steps that would be attached to the outside of the caravan. It is proposed to construct a new compost toilet on the site to serve this additional pitch.

5.4.4 Personal information pertaining to the health and care requirements of the applicant's parents has been provided in support of the application. Mr and Mrs Perrot are unable to continue with their lifestyle as continual cruisers on a canal boat. These dependent relatives were not living on the site when the case officer last visited the premises.

5.4.5 The second pitch proposed on the site is for a second travelling show person family consisting of the applicant's sister and partner and their son (Nina Perrot and Nick Van der Kolt). This family group are already living on the site. The proposed pitch would consist of two motor homes that would be sited on pad stones. Parking is to the north and close to the entrance of the site. The occupants of this pitch would have use of the existing compost toilet.

5.4.6 Information has been submitted with the application to explain the employment history of Nina Perrot and Nick Van der Kolt. This confidential information includes letters from a number of people and companies who have employed the couple over the years. Their work has been varied and has included a significant number of employments within the festival and show circuits. There is a greater level of information regarding the working history and pattern of Nick Van der Kolt due to family circumstances with regards to caring for their son. It is understood that the couple's son is enrolled at a local Secondary school and is able to attend regularly.

5.4.7 As well as requiring a site upon which to live when not travelling for work, Nina Perrot and Nick Van der Kolt wish to remain living on the site in order to share the care responsibilities of Mr and Mrs Perrot with the applicant.

5.4.8 The LPA consider that Nick Van der Kolt complies with the definition of a travelling show person within the DCLG 'Planning Policy for Traveller Sites', as amended in 2015. The Local Planning Authority consider that Nina Perrot has been a dependent of her partner in recent years due to the requirement to provide childcare but acknowledge that she has continued to travel for work with her partner.

5.4.9 Planning policy for travellers sites (para 11) states that Traveller sites should be 'sustainable economically, socially and environmentally' and therefore ensure that Local Planning Authority policies 'promote peaceful and integrated co-existence between the site and settled community...ensure that children can attend school on a regular basis...provide a settled base that reduces the need for long-distance travelling and possible environmental damage caused by unauthorised encampment...reflect the way in which traditional lifestyles can contribute to sustainability.'

5.4.10 It is understood that the children that currently live on the site regularly attend either primary or secondary school in the local area and in this regard the families established an integrated co-existence with the settled community. There has been a number of objections

to the current proposals to expand the number of pitches on this site to a total of 3. The majority of these objections refer to concerns regarding the impact on local highway from additional traffic movements as well as impact on visual amenity of the area. The PPTS states that 'Local planning authorities should ensure that sites in rural areas respect the scale of, and do not dominate the nearest settled community, and avoid placing an undue pressure on the local infrastructure.' Although two additional pitches are being sought, it is considered that the provision of a total of 3 family pitches would not have a dominating impact upon the settled community in the area or place undue pressure on local infrastructure. The objections do not suggest that the development on the proposed site to accommodate 3 family pitches would be out of scale with the surrounding settled community and due to the distance from nearby properties is not considered that the 3 pitches would have an adverse impact on the amenity of occupiers of nearby properties.

5.4.11 Personal mitigating information has been submitted relating to the need for two additional family pitches on this site and this has been taken into account when considering the proposed development. It has been concluded that the personal circumstances information relating to family members does add weight to the planning merits of the application.

5.4.12 Should the development be refused and Nina Perrot and Nick Van der Kolt are required to vacate the current site and re establish a base for the family elsewhere, there would be an adverse impact on their child's education as they have become settled within the community, there is also currently no other sites within Mid Devon to accommodate the family. As there are broader family circumstances to be taken into account when assessing this application it is considered reasonable and justified for the Local Planning Authority to impose a personal condition restricting the occupation of the additional pitches on the site to the proposed occupants as stated in the supporting planning statement.

5.4.13 The personal permission would restrict the occupation of the two additional pitches to:

- Mrs Sue Perrot and Mr Peter Perrot;
- Miss Nina Perrot, Mr Nick Van der Kolt and their dependents.

## **5.5 Additional structures proposed**

5.5.1 The application includes the erection of a composting toilet on the site to serve one of the two additional pitches. There is already one composting toilet on the site. The composting toilet proposed is a small structure that would have a limited impact on the overall appearance of the site. It would be 2.7m high, 1.9m long and 1.7m wide. The general appearance of the compost toilet is similar to that of the existing, the toilet is accommodated within the modest sized timber structure. It is not considered that the structure will be highly visible or intrusive in the landscape.

5.5.2 In order to access the mobile home that would be occupied by Mr and Mrs Perrot, it is proposed to provide external timber steps on three of the elevations of the mobile home. The specification details submitted as supporting information with the application suggests that a small timber walkway would be provided at one end of the mobile home. The Local Planning Authority consider that this aspect of the mobile home would not fall within the definition of caravan and as such has been considered as a separate structure that would be fixed to the outside of the mobile home. The timber steps and walkway are considered to be acceptable as they would not be highly visible as an addition to the mobile home.

5.5.3 These additional structures are considered to be acceptable for the reasons described above and in accordance with policy DM2 Local Plan Part 3 (Development Management Policies).

## **5.6 Other matters including drainage, visual impact**

5.6.1 Foul and grey water drainage - The application states that foul and grey water will be managed on site. Foul sewage will be managed by the 2 compost toilets. The grey water will be dealt with separately from the two additional pitches. The grey water from the motor homes is proposed to be fed through a peat filter and into a tank. The water in the tank is then able to be used on site to water plants etc. the system has been designed to accommodate the grey water produced by the family each day. Percolation tests have been carried out on the site and indicated that the soil has adequate drainage capacity. The grey water from the mobile home is proposed to be connected to a reed bed system, through which wetland plants take up phosphorous and nitrogen and transfers oxygen to roots that breaks down pollutants and organic matter. The plants are set in a gravel mulch layer that filtrates food particles and fine sediments. The clean water is channelled either into a pond or into soakaways.

5.6.2 Surface water drainage - due to a lack of hard or impermeable surfaces the surface water from the site is from roofs of the caravans and ancillary structures only. Surface water from the motorhomes will be directed onto the permeable surface on which the caravans are to be sited and surface water from the mobile home will be collected in water butts and any overflow will be directed to soakaway into the permeable surface on which the mobile home will be sited.

5.6.3 Environmental Health have raised concerns about the provision of two composting toilets on the site and proximity to the bore hole. Further information has been sought from the Agent regarding this matter and updated information will be provided to the Committee.

5.6.4 The Environment Agency have provided standing advice on this application which states that in flood zone 1 a change of use to a highly vulnerable use (this includes caravans for habitable use) does not require any consultation with the EA. Consequently it is considered that subject to conditions requiring that suitable surface water and foul drainage is in place prior to occupation, there are no grounds to refuse the application with regards to drainage.

5.7 Visual impact - Concern has been raised that the provision of two additional pitches on this site would have an adverse impact on the visual amenity of the surrounding rural area and on the setting of the Grade II\* listed park and garden of the Killerton estate. The site sits fairly low in the landscape and the boundaries of the site are a mixture of trees and hedging. Since permission was granted in 2013 for the existing travelling showpersons pitch a number of additional trees have been planted on the site. There are no views into the site from Hayne Lane. A limited view into the site is possible through the entrance if continuing down Hayne Lane to connect to the public footpath that passes close to the site and continues in an easterly direction toward the river and Killerton beyond. There are no clear views into the site from this public footpath, in fact there is an intervening land use between the public footpath and the application site that is clearly visible and which mostly prevents any view into the application site beyond.

There is a permissive bridlepath and footpath on the western edge of the Killerton estate from which it is possible to look toward properties Lower Hayne, Hayne House and the equestrian/agricultural use adjacent to the application site, as well as toward the application site itself. However, although this popular footpath/bridleway is slightly elevated above the application site, due to the density of vegetation on the boundaries of the application site the residential and horticultural activity on the site is not visible from this vantage point during spring or summer. Although the proposed development would increase the residential activity on the site and this represents an incremental change to the character of the site,

plus it is unlikely that the soft landscaped screening would provide such a complete visual screen of the site in the winter months, it is not considered that the proposed development on the site would have a significant detrimental impact on the visual amenity of the area or on the setting of the listed Killerton Estate. With regards to visual impact, the development is considered to be in accordance with policies DM2 and DM27 Local Plan Part 3 (Development Management Policies).

## **6. Planning balance and Summary**

6.1 Local Planning Authorities, as public bodies, are subject to duties imposed by the Human Rights Act 1998 and are therefore required to act compatibly with the rights conveyed by the European Convention on Human Rights (ECHR), which was enacted by the Human Rights Act 1998.

In particular, Article 8 of the Convention provides that:

1. Everyone has the right to respect for his private and family life, his home and his correspondence.
2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

6.2 These rights would be engaged should the application be refused. Article 8 relates to the right to respect for private and family life and as conferred in legal judgements, implies a balancing exercise at Article 8(2) to be weighed against the wider public interest.

## **CONDITIONS**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice.
3. The site shall not be occupied by persons other than:  
Miss Adele Perrot and her dependents  
Mr Peter Perrot and Mrs Sue Perrot  
Miss Nina Perrot, Mr Nick Van der Kolt and their dependents.
4. This permission shall only authorise the use of the application site for the stationing thereon of 3 x motor home, 1 x towable caravan (touring type), 1 x mobile home which comply with the definition of "caravan" in Section 29(1) of the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (and as amended by the Caravan Sites and Social Landlords Act 1968 (Permissible Additional Purposes) (England) Order 2006 (Definition of Caravan) (Amendment) (England) Order 2006 shall be stationed on the site at any time.
5. If the site is no longer required for the permitted use by Miss Adele Perrot or her dependents, Mr Peter Perrot, Mrs Sue Perrot, Miss Nina Perrot or her dependents or Mr Nick Van der Kolt, then any caravans or vehicles associated with the pitches shall

be removed from the site within 6 months along with ancillary buildings or structure, and the site restored to a condition in accordance with a timetable to be agreed in writing by the Local Planning Authority.

6. Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) no development of the types referred to in Class A of Part 2 of Schedule 2, relating to fences, walls, gates and other means of enclosure, 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. The Local Planning Authority is not satisfied that the application site could adequately accommodate travelling show people and their chosen type of business on an unrestricted basis in terms of the potential impact on the local highway network or potential impact on the landscape character or visual amenity of the area. However as the existing and proposed residents occupation of the site is considered to be acceptable, the imposition of a personal consent is considered to be appropriate and to comply with national planning policy for travellers sites, Policy AL/DE/7 of the Allocations and Infrastructure Development Plan Document and Policy DM2 Local Plan Part 3 (Development Management Policies).
4. For the avoidance of doubt and to concur with the nature of the proposal having regard to the submitted details and to enable the Local Planning Authority to retain control over any possible future development of the site in accordance with Policy COR18 of the Mid Devon Core Strategy (Local Plan Part 1) and Policy AL/DE/7 of the Allocations and Infrastructure Development Plan Document (Local Plan Part 2).
5. To ensure the site is restored to its pre-development state, given its location in the countryside in accordance with Policy DM2 Local Plan Part 3 (Development Management Policies).
6. To safeguard the visual amenities of the area in accordance with Policy DM2 of the Local Plan Part 3 (Development Management Policies).

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

The applicant and her family currently lawfully occupy the site. The applicant's sister and family are also currently living on the site. The applicant's parents do not currently live on the site. The applicant's parents if living on the site would become the dependents of the application, the care of which would be shared between the applicant and her sister. The applicant's sister and partner have been found to meet the definition of travelling show people as set out in the 2015 amended PPTS. The site is considered to be an acceptable location for a travelling show persons site and there is permanent permission for a single travelling showpersons pitch on the site (restricted to occupancy by the applicant and her dependents). It is considered that the proposed development would have a limited impact on the visual amenity of the area or on the setting of the listed park and garden of the

Killerton estate. The applicant and her family have become integrated with the local community and all the children present on the site regularly attend school. Additionally the Council has not sufficiently progressed with the provision of a public gypsy and traveller site nor with the provision of gypsy and traveller sites through the delivery of development of allocated sites. As a result the Council has no alternative site within the district upon which the applicant's sister could be accommodated now or within a reasonable timescale. On balance it is considered that the needs for the provision of two additional pitches on this site outweigh any harm associated with the impact on the highway and any limited harm to the visual amenity of the area. Therefore it is recommended that planning permission is approved. As the needs of the application refer to the requirement to provide accommodation for dependent relatives of the applicant and the second travelling showperson pitch is also related to the provision of accommodation to provide care and assistance to these dependent relatives, it is considered appropriate to impose a personal permission on the site that ensures that the two additional pitches are occupied by the family members stated within the application supporting documents. Taking into account all material considerations the application meets with the requirements of Policies COR1, COR9, COR12 and COR18 of Mid Devon Core Strategy (Local Plan Part 1), Policy AL/DE/7 of the Allocations and Infrastructure Development Plan Document and Policies DM2 and DM27 of Local Plan Part 3 (Development Management Policies).

**Author and Contact for any more information**

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**Background Papers**

10/00334/FULL  
11/00107/NUCU  
APP/Y/1138/C/11/2167967  
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**File Reference**

16/01830/FULL

**Circulation of the Report**

Cllrs Richard Chesterton  
Members of the Planning Committee

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