

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, 3 January 2018 at 2.15 pm

The next ordinary meeting of the Committee will take place on Wednesday, 31 January 2018 at 2.15 pm in the Phoenix Chamber, Phoenix House, Tiverton

STEPHEN WALFORD

Chief Executive
20 December 2017

Councillors: Mrs F J Colthorpe (Chairman), Mrs H Bainbridge, Mrs C Collis, Mrs G Doe, R J Dolley, P J Heal, 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 - 32*)

Members to consider whether to approve the minutes as a correct record of the meeting held on 29 November 2017.

4 **CHAIRMAN'S ANNOUNCEMENTS**

To receive any announcements the Chairman may wish to make.

5 **ENFORCEMENT LIST** (*Pages 33 - 42*)

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 43 - 118*)

To consider the planning applications contained in the list.

8 **MAJOR APPLICATIONS WITH NO DECISION** (*Pages 119 - 122*)

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

9 **APPEAL DECISIONS** (*Pages 123 - 126*)

To receive for information a list of recent appeal decisions.

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

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

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

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

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

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

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MID DEVON DISTRICT COUNCIL

MINUTES of a **MEETING** of the **PLANNING COMMITTEE** held on 29 November 2017 at 2.15 pm

Present

Councillors

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

Also Present

Councillor(s)

D R Coren, J M Downes, C J Eginton,
R Evans, Mrs J Roach and C R Slade

Present

Officers:

David Green (Group Manager for Development), Kathryn Tebbey (Group Manager for Legal Services and Monitoring Officer), Simon Trafford (Area Team Leader), Lucy Hodgson (Area Team Leader), Christie McCombe (Area Planning Officer), Hannah Cameron (Planning Officer), Michael Parker (Housing Options Manager), Sally Gabriel (Member Services Manager) and Adrian Devereaux (Principal Planning Officer)

80 **APOLOGIES AND SUBSTITUTE MEMBERS**

There were no apologies.

81 **PUBLIC QUESTION TIME**

Mr M Greig, referring to item number 8 the agenda said, speaking on behalf of Mrs Violet Stevens, stated that the planning officer has referred to a number of properties in the proposed access cul-de-sac as being occupied by elderly and disabled residents, however he has not specified that these homes will always be occupied by elderly and disabled so will always be occupied by people with special needs. In fact, living there is a bit like living in an old people's sheltered housing complex. Does the Planning Officer agree that discussions about access should not just be about generalised highway safety but also the specific needs of those living in that cul de sac? Mrs Stevens has lived in her bungalow for over 30 years and during that time an ambulance has needed to come for residents on many occasions, a great deal more I am sure than the national average for a cul de sac given the care needs of almost all residents here. But a parked ambulance blocks or restricts access to the rest of the cul de sac. More houses would mean more people being inconvenienced so why does the Planning Officer consider this cul de sac to be the most appropriate means of access to any new housing when an alternative does exist?

At the meeting of this committee in October Section 106 money was discussed including a proposal that £50k would be allocated to the funding of a village hall in Copplestone, a sum that is just a drop in the ocean compared to the funds needed. It was also suggested that the hall would benefit the environment by significantly reducing traffic between Copplestone and Lords Meadow Leisure Centre, when in fact most users of Lords Meadow go for specialised facilities such as a swimming pool, things that are not designated in part of the new village hall. In the village it is seen as the talk of money towards the hall, something of a red herring seeking to justify development that the village rejects by offering what feels like jam tomorrow.

Section 2.6 of the implications report echoes comments made at this Committee in October and suggests a significant community benefit as a result of paths from the development to the schools. The Parish Council has discussed this with the schools head and the outdoor area behind the pre-school which needs to remain enclosed is located where the proposed path is shown to enter and the school would not allow access here on security grounds. Has the applicant or planning officer discussed this with the school and with what result?

Mrs A Greig, also referring to item 8 on the agenda, said at the October Planning Committee the Planning Officer was asked about access to the proposed site from the East but dismissed it on the grounds that there was no road beyond the farm yet Mr Pearcey has said that he would ask construction traffic to access the site from this way so does the Planning Officer agree that a road can if necessary be built?

In the Planning Committee reasons for deferral they stated the access was unsuitable. This was the considered opinion of people that understand the needs of the very elderly and disabled and the implications report seems to conclude that 3 of the 4 reasons are valid and defensible. What then is the justification for returning a different decision from the one that was made last time?

Mr E Cole, referring to item 9, said at the site meeting we were told that the private lane into 10 Mayfair is to be adopted. Section 87 of the 1980 Highways Act states that local authorities will not adopt private roads unless the adoption would constitute sufficient wider benefit. If access to area B through 10 Mayfair has been dismissed why are the council still intending to adopt the private lane for this proposed development of 5 dwellings?

Cllr Grantham, referring to item 4 on the Plans List said the recommendation refers to the prior signing of a S106 agreement relating to affordable housing for rent in perpetuity but members do not have the wording for approval. Should not the wording be available for scrutiny? We have examples of such alleged agreements in the past where some of the houses were then sold as they allegedly could not be let. We also have a recent case where a S106 agreement was incorrect over the parish to whom contributions should be paid. We also have a DCC case where the agreement said exactly opposite to what was intended. All these had been prepared by officers without there being an opportunity for comment from the relevant planning committee or parish council.

Figures are given as to housing need within Willand by the MDDC Housing Enabling Officer which are more than double those presented in a recent Housing Needs Survey commissioned by Willand in conjunction with MDDC and using figures obtained in a survey and figures provided by the Devon Homes Choice list. Where is

the evidence to show that these people in the officer figures who are seeking housing in Willand qualify for housing on an exception site by having a local connection as stipulated by MDDC policy and guidance given in NPPF. Even if the need for 37 houses is accepted by members Willand Parish Council has shown that these, and more, can be met over the next five years from within the planned and existing housing stock.

Cllr Warren, referring to item 4 on the Plans list said on page 61 of the reports pack the officer has summarised the Police advice which has amounted to not giving a true representation of what was said – why? The full wording is “I note and have concerns regarding the relocation of the proposed apartment blocks, plots 8-11 and 23-26 respectively and their associated parking courts. The change in layout of dwellings appears to provide little or no surveillance opportunities over the parking courts. 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. Natural surveillance of these spaces could be improved by incorporating gable end windows in the adjacent plots (14, 26 & 27) along with adequate and appropriate street lighting. I would ask that this is considered if not already a design feature. However, it should be noted this places the burden of surveillance on the occupants of these plots, regrettably, there is overwhelming evidence to suggest that unless a crime directly involves a member of the public, many will not act or report it for fear of repercussions. Residents will also look to park as near to their choice of main access point, resulting in parking on footpaths and verge’s, thus creating potential for community conflict between residents and motorists. Why are these issues raised by the police and the Parish Council being discounted thereby planning for problems? How can the Officer justify the remark under 5 on page 66 – “The parking provided is well related to the dwelling houses and meets the requirements of policy DM8.” – when plots 16, 17, 27 & 28 are more likely to park in front of their houses partially obstructing the entrance into the whole complex?

On page 63 of your pack in the paragraph before heading 2 it states “....As such, it is not the case that the proposal would not have in principle policy support under the emerging plan. Furthermore, due to the outstanding objections to the emerging local plan and its early stage of submission, the plan holds limited weight at the current time and therefore the proposal must be determined based on the existing policy framework.” In other applications we are being told that the current plan is silent and does not have weight. How can this conflicting comment be relevant to the advice members are receiving?

There are 13 conditions listed on pages 68 & 69 with reasons on page 70. Is condition 6 practical or enforceable? Willand Parish Council can quote a number of similar examples on other applications where a similar condition has been applied. When it has been ignored or openly flouted, complaints have met with prevarication by officers and then the developer has gone so far that we then get told that it is not expedient to do anything about it. What assurance do committee have that the same will not happen in this case particularly as this is going to affect the main road through the village?

Ms C Romijm, referring to item 8 on the agenda, said previous questions have spoken about the impact on individual elderly and disabled people that live in the cul de sac that will give access but I thought it was a wider policy question and would like

to ask if the development goes ahead it will destroy the effectiveness of the cul de sac which currently provides an enclave of safe quiet accommodation for older and disabled people in the village and it is self-evident that it is more efficient if individual care needs can be met together in a single hub rather than widely scattered. I would like to ask the Planning Officer if you look at the Mid Devon Housing Strategy it provides as a priority managing the impact of an aging population together with a prediction that the number of over 75's in Mid Devon will rise from the current 7500 to 14000 by 2040. In this context I would like to ask does the Planning Officer agree that it would be counterproductive and out of line with that priority to allow us to lose the current good quality enclave of supportable elderly accommodation in Copplestone?

Mrs V Lucas, referring to item 9 on the agenda, said having been told at the last meeting that the lane would not be adopted Cllr Moore sought clarification as to how far the residents may need to tow their rubbish to be collected by the bin lorry. Can the officer confirm that the information given of just short of 60m was misleading as it was the estimate of the length of the first part of the lane and in fact residents of plot number 5 would be towing their rubbish in excess of 190m for collection?

Ms A Glover, of Willand, referring to item 4 on the Plans list said on page 63 of the pack the officer states a requirement under policy AL/WI/2 for there to be improved pedestrian links to the village and the retention and enhancement of the existing public right of way. Why was none of this dealt with as part of the application for the houses in Ash Close? Why is there nothing in this application to comply with those policies? Why are these features not considered under the need for pedestrian safety as outlined in the parish council response which would also include the reduction of the speed limit? Children must walk along the main road to get to school or any play areas. These will add to the families who currently cross over from the rear of Townlands to use this pavement which is too narrow opposite the new building site on the Old Village side. There is only provision for a small amenity area on the actual application site and this is badly placed in relation to the bungalow on the site.

Mrs B Chamberlain, referring to item 9 on the agenda, said if this application is agreed we will be overlooked in 5 of our 7 rooms. The officer's report makes no condition to the quality of the proposed screening. The plan shows existing trees in our garden that do not exist and says that these will provide screening. If this application is approved can she assure us that there are conditions added that specific height mature trees will be planted along the boundaries, which will provide all year round foliage?

Mr L Menheneott, referring to item 9 on the agenda, said in the officers report condition 6a states that no development shall take place until the access road has been laid out, kerbed and constructed to a base core level for the first 20 meters from its junction with the public highway. Can the officer say if this would make the improvements to the road beyond the entrance to the drive of number 8 Mayfair without a proper pavement that construction traffic will cause a hazard to pedestrians? Would she consider extending this distance to 40m?

Mrs S Sumner, referring to item 9 on the agenda, stated that the site at 10 Mayfair is clearly not part of area B, it is clearly part of Mayfair. The density figures of 13.5 dwellings per hectare quoted for the development are somewhat misleading. Can the

Planning Officer confirm that if one takes the area of the proposed site of the new dwelling and divides by 5, the number of new houses, a figure of 3.3 dph is achieved? This is set against a figure of 6.4 for the 4 houses bordering the application and a density of 6.95 for Mayfair as a whole.

Mr R Davey, referring to item 12 on the agenda, asked whether the report prepared for the Committee was independent? By that I mean has she been pressurised by the Chief Executive, Councillors or other officers to take a particular view of this scheme?

I assume she has collated the information, spoken to the developers, been to the site, has she talked to or contacted the residents or the objectors to the scheme?

If that is not the case she has been in close contact with the developer and has she been actively assisting them to overcome issues that have been raised, in the Gazette report it states that the site is located in flood zone 3 and that the Environment Agency has assessed it against the requirements of the National Planning Policy Framework, is the Gazette report correct and is it a fact that the Environment Agency have insisted that flood warning signs are posted on the site and that they list this site as highly probable to flood? Is it not also true that MDDC's own 2009 Flood Risk Plan report states that the Town Hall site is ranked 5th highest for flood risk, therefore increased flood risk makes it less suitable for development. In addition the flood assessment report for this scheme also states that the site will flood, is that true?

82 **MINUTES OF THE PREVIOUS MEETING (00-28-53)**

The minutes of the meeting held on 1 November 2017 were approved as a correct record and signed by the Chairman.

83 **CHAIRMAN'S ANNOUNCEMENTS (00-29-56)**

The Chairman had no announcements to make.

84 **DEFERRALS FROM THE PLANS LIST**

The Chairman informed the meeting that Item 5 (Application 17/01292/FULL – Veltham Barn, Morebath) had been deferred to allow for further information to be submitted.

85 **THE PLANS LIST (00-30-42)**

The Committee considered the applications in the plans list *.

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

(a) Applications dealt with without debate.

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

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

(i) No 7 on the Plans *List (17/01464/FULL – retention of change of use from shop (A1) to Tattoo and Piercing Studio)(Sui Generis) – 17 West-Exe South, Tiverton*) be approved subject to conditions as recommended by the Head of Planning, Economy and Regeneration.

(Proposed by the Chairman)

Note: Cllr R L Stanley declared a personal interest as Cabinet Member with property sat within his portfolio.

(b) No 1 on the Plans *List (17/00982/MFUL – Erection of 49 dwellings, including associated public open space, landscaping and all other associated external work – land at NGR 284671 100838 Cromwell’s Meadow, Crediton.*

The Area Team Leader outlined the contents of the report highlighting by way of presentation the site location plan sitting adjacent to the existing Cromwell’s Meadow estate, the adopted and emerging policies, the development would be located outside of the flood plain, the concerns of the Town Council and the updated position of South West Water. He outlined the proposed site layout and the pedestrian connection into the existing site, the affordable housing distribution on the site, parking provision, the open space proposed and the connection to the proposed Pedlarspool site allocation. The proposed street scene and design types were identified, along with the drainage strategy, the refuse storage and collection points, elevations of the proposed dwellings and photographs from various aspects of the site.

Consideration was given to:

- The parking provision
- The drainage scheme and management of the attenuation ponds
- Flood history, high water tables and sewage issues
- The density of the proposal and possible over development of the site
- The site being allocated in the Allocation and Infrastructure Development Plan Document
- The distribution of the affordable housing
- The lack of a 5 year land supply and the reasoning as to why the development of 49 dwellings was being brought forward at this time
- Consultation feedback from South West Water and Devon County Highways Authority

RESOLVED that planning permission be granted subject to:

- The prior signing of a S106 Agreement relating to the provision of 35% affordable housing on site (a total of 17 units), air quality contribution of £139,008.00, an open space contribution of £40,768.00 and an education contribution of £179,487.00
- Conditions as recommended by the Head of Planning, Economy and Regeneration with an amendment to Criterion D of Condition 6 as follows: D)

A site compound and car park shall have been constructed on site in accordance with details that shall have been submitted to and approved in writing by the local planning authority.

(Proposed by the Chairman)

Notes:

- i) Mrs Phillips spoke on behalf of the objectors;
- ii) Mr West (Applicant) spoke;
- iii) Cllr J M Downes spoke as Ward Member;
- iv) Cllr F W Letch requested that his vote against the decision be recorded;
- v) The following late information was provided:

Page 22: In the proposed development section amend the third bullet point to delete the following words from the report: each with a double garage and 2 car parking spaces. This is a drafting error.

Page 22: In the applicants supporting information section update the plans as listed as follows. These revised plans reflect the changes to the layout that were agreed and assessed as set out in the report but with a delay in the plans being submitted.

Site layout plan (**rev P5**), Materials Layout (**rev P4**), Affordable Housing Distribution Plan (**rev P4**), Building Storey Heights Plan (**rev P3**), Street scene drawing (**rev P3**) Public Open Space Area Plan (**rev P2**): **Revised date 13th November and as received on 17th November.**

Drainage and Transport drawings prepared by Vectos: **Revised date 13th November and as received on 17th November.**

Page 19: Flood Risk Assessment & Drainage Strategy prepared Vectos: **Revised date 13th November and as received on 17th November.**

Page 29: Following further consideration at their meeting on 21st the Town Council have submitted the following further comments about the application.

To recommend OBJECTION to the application on the following grounds:

- It is overdevelopment of the site. The Local Plan Policy CRE3 has allocated 35 dwellings on the site, however, this application proposes 49 dwelling.
- South West Water sewerage system is incapable of coping with the current capacity generated from dwellings in the surrounding area such as Cromwells Meadow, Willow Walk, Hedgerow Close, Primrose Way etc. There are regular occurrences of the pumping station breaking down resulting in raw sewerage overflowing into the gardens of properties. The introduction of further dwellings on to the system will exacerbate these issues causing increased public health issues.

- The proposed development site is still a flood plain and has regularly flooded in the past. Raising the level of the development does not remove it from being on a flood plain. Neighbouring properties surrounding the development will be impacted by water run-off from the level being raised.
- The installation of an attenuation pond to accommodate surface water run-off is insufficient mitigation for the level of surface water run-off. It is questionable as to whether the drainage ditch located at the southern boundary will be able to cope with the increased volumes of water from the attenuation pond, as this already accommodates water run-off from other areas. This development could increase the risk of flooding elsewhere due to water run-off.
- The Management of the attenuation pond is of concern as this will be the responsibility of the residents of the development, who will not have the knowledge or expertise for such an important liability.
- The access to the site via Willow Walk is unsuitable. Willow Walk is unable to accommodate the increased level of traffic and parking that this development will generate.
- There is no play space on the site.
- There is no consideration for walking and cycling routes.

Case officer comments: The views of statutory consultees are set out above regards the flood risk, surface drainage and foul water impacts that are referred to by Crediton Town Council. The other issues as raised are addressed in the main body of the report.

Page 37. Please re-draft Criterion D of Condition 6 as follows:

D) A site compound and car park shall have been constructed on site in accordance with details that shall have been submitted to and approved in writing by the local planning authority.

Page 38. Please correct the drafting as set out in the report in terms of the phrase **land rising** to **land raising**.

Following a number of concerns expressed by local stakeholders and the Town Council further clarification has been provided direct by the Planning and Sewer & Adoptions Team at South West water – comment below received via email on 28th November.

I have reviewed the site at Cromwell Meadow and based on foul flows only entering the foul/combined sewerage network, South West Water has not identified any hydraulic overloading issues in the public sewerage network. Therefore, the comment to advise SWW has no objection stands and we will not request a condition for the planning application.

Officer Comment. The scheme includes a new foul link to serve the new development which links to the existing public foul sewer connection at Willow Walk, with a separate arrangement to manage surface water (including a diversion of the existing surface water sewer that serves the existing Cromwells Meadow Housing estate).

Reflecting on the controls imposed by Condition 21 as recommended in the report, the scheme details as described above and the clarification provides by the Planning and Sewer & Adoptions Team it is recommended that members have sufficient information and clarity to conclude positively on this issue from a (town and county planning) development management assessment point of view.

(c) No 2 on the Plans *List (17/01487/HOUSE – Retention of replacement two-storey outbuilding – 6 Forestry Houses, Chenson, Chulmleigh)*.

The Area Team Leader outlined the contents of the report explaining that the application related to a 2 storey building already constructed to the rear of the property, he highlighted the site location plan and the outbuilding away from the main building on the site and provided photographs from various aspects which included pictures of other buildings used for storage.

Consideration was given:

- The rural location
- The fact that the remoteness didn't mean it was acceptable
- The siting of a greenhouse in the shade

RESOLVED that the application be refused as recommended by the Head of Planning, Economy and Regeneration.

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

Notes:

- (i) Cllr C J Eginton spoke as Ward Member;
- (ii) The following late information was reported: Page 45: Reason for Refusal number 2. add the following sentence to the reason as drafted in the Report pack. On this basis the application proposals (retrospective) would be contrary to Policy COR18 of the Mid Devon Core Strategy (Local Plan Part 1).

(d) No 3 on the Plans *List (17/01414/FULL – Conversion of disused former office/workshop/store to dwelling – building at NGR 268200 111519, Eggesford Station Yard, Eggesford)*.

The Area Team Leader outlined the contents of the report by way of presentation highlighting the site location plan, the fact that the development was proposed in the open countryside, the existing building that was to be converted, the existing, proposed plans, elevations and photographs from various aspects of the site.

Consideration was given:

- Previous applications on the site
- The fact that the building was a former office and rest area used in conjunction with Eggesford Garage but outside the settlement limit
- The footprint of the original building

- The proposal would be adjacent to Eggesford Station and therefore ideally situated for train travel
- Houses in the vicinity of the application site
- The benefits of conversion
- The need for starter homes in the local area
- Employment opportunities in the local area

RESOLVED that:

- a) The application be granted planning permission for the following reason: The Local Planning Authority recognise that the application site is in the open countryside and is not an allocated site for new residential development and therefore there is no specific development plan policy support for the application scheme which is for the conversion and extension of a single storey dilapidated garage style/storage unit into a residential unit with accommodation over two levels, off street car parking and a rear garden area. However taking into account the provisions of paragraph 14 of the National Policy Framework, the improvements to the visual amenities of the site and to the general area that would arise from the application scheme and given the proximity of the site to the Eggesford Train Station the benefits of the proposals are considered to outweigh the objections on development plan policy grounds.
- b) Delegated authority to be given to the Head of Planning, Economy and Regeneration to produce a set of conditions for the development to include reference to contaminated land and to also produce a Section 106 agreement for the provision of contributions towards the delivery of new/improvement of existing public open space off site.

(Proposed by Cllr R L Stanley and seconded by Cllr R J Dolley)

Notes:

- (i) Cllr J D Squire declared a personal interest as the applicant was known to him;
- (ii) Mr Churchill (Applicant) spoke;
- (iii) Cllr C J Eginton spoke as Ward Member;
- (iv) A proposal to refuse the application was not supported;
- (v) The following late information was provided: The consultation period has finished and no further comments have been received.

The applicant has submitted a further letter in support of the application (23/11/2017) which raises the following issues:

1. A site visit was carried out at the time of displaying the site notice (25/10/2017) and it was not considered that a further visit was necessary. Furthermore the applicant was advised that Planning Committee could

decide to make a site visit should they consider it necessary as part of their assessment of the application.

2. The applicant considers that the proposal is permitted development by virtue of Class O of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended) which allows the change of use of a building and any land within its curtilage from a use falling within B1(a) (offices) to C3 (dwelling).

3.

Officer comment: the building appears as a functional garage/ store type building and there was no evidence to suggest that it has been used, or furnished for use, as an office. As such it is considered unlikely that the building would qualify for change of use under these permitted development rights unless the applicant can submit evidence to demonstrate its use as an office in accordance with Class O. In addition, the Class O permitted development rights would not allow the significant alterations to the building that are proposed as part of the application scheme.

(e) No 4 on the Plans *List (17/011797/MFUL – Erection of 28 affordable dwellings, together with associated landscaping, highways and drainage infrastructure – land at NGR 303340 110341 (Land off Silver Street) Willand).*

The Planning Officer outlined the contents of the report by way of presentation highlighting the site location adjacent to the 7 affordable dwellings already in situ. She explained that each dwelling would have 2 parking spaces in line with policy, identified the communal bin storage area and the boundary treatment plan, access to the site, the dwelling sizes and design, elevations and floor plans and provided photographs from various aspects of the site. The developer had put forward an offer of funding to go towards education provision in the village and stated that the Parish Council had requested that the 30 mph zone be moved, the Highway Authority had confirmed that it would not support such a proposal, however this could be pursued further by the Parish Council at a later date.

The officer provided answers to questions posed within Public Question Time:

- With regard to the Parish Council viewing the S106 Agreement prior to signing - this was not standard practice and would be dealt with by the Legal Department.
- The Housing Need Survey commissioned by the Parish Council was 18 months old and that Devon Home Choice had up to date figures. With regard to other housing development in the area, this would still not meet the current need.
- With regard to the Police comments, they were summarised, it was only the Parish Council representation that was provided in full. The design of plots 14, 27 and 26 had all been amended so that the windows were on the side elevations.
- Parking was not ideal, but there had to be a balance.
- With regard to pedestrian links, the Highway Authority had stated that there was no need for those to be updated. Works to the hedgerow would take place to make walkways more friendly and no further work was required on the Right of Way.

- With regard to the bungalow close to the public open space – this would provide a nice outlook from the dwelling; this was a green area and not a formal play area.
- With regard to the policy framework, this was an allocated site and therefore in the current plan.
- Condition 6 – this was enforceable and a standard condition.

Consideration was given to:

- The access to the proposed dwellings would be outside the 30 mph zone
- The Section 106 financial information was available on the update sheet
- Parking issues
- The Housing Needs Survey and information provided by Devon Home Choice
- The housing need in the area
- The housings would be for social affordable rent
- Whether the application should be deferred to consider further the housing need
- The land allocation and whether it was required at the current time
- The advice of the Housing Options Manager with regard to the demand for affordable housing in the village
- The need for the Mid Devon cascade policy to be in place

RESOLVED that the application be granted planning permission subject to the prior signing of a S106 agreement relating to affordable housing provision in perpetuity and the provision of an education contribution with conditions as recommended by the Head of Planning, Economy and Regeneration.

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

Notes:

- (i) Cllr R L Stanley declared a personal interest as Cabinet Member for Housing;
- (ii) Mr Hourican spoke on behalf of the agent;
- (iii) Cllr Warren spoke on behalf of Willand Parish Council;
- (iv) Cllr R Evans spoke as Ward Member;
- (v) The Chairman read a statement on behalf of Cllr R J Chesterton (Ward Member);
- (vi) Mr Parker (Mid Devon District Council - Housing Options Manager) spoke;
- (vii) Cllrs: Mrs C A Collis, Mrs G Doe and R F Radford requested that their vote against the decision be recorded;
- (viii) The following late information was reported: 1 - Further comments from Willand Parish Council received on the 27th of November:

Willand Parish Council considered the revised plans at the meeting on 23 November and is concerned that the revision takes little or no account of the

numerous concerns raised by it and other consultees and respondents. The Parish Council wish to stand fully by their earlier representations.

Further comments from the Highway Authority in relation to moving the 30mph zone: The Highway Authority has confirmed that it would not be reasonable to condition a Traffic Regulation Order as it requires consultation and if it is objected to it may not go ahead. Highways have confirmed they would not be able to support moving the 30mph zone, as the Traffic Engineers stated that the 259 houses proposed (recently refused at appeal) did not require this change. The Highway Authority have advised that this matter could be pursued by the Parish with County Traffic Engineers.

Updated need figures for Willand and surrounding Parishes

All Devon Home Choice figures contained within the tables below show the number of people within each area with a need for affordable rented accommodation. The figures only show persons who live or work in each of the respective parishes at present. The figures are as of the end of November 2017.

Uffculme:

	Banding for Uffculme				
Bedroom Need	Band B	Band C	Band D	Band E	Grand Total
1	1	4	10	21	36
2	2	3	4	11	20
3	2	3	1	4	10
4		2			2
Grand Total	5	12	15	36	68

Halberton:

Count of Bedroom	Banding for Halberton				
Bedroom	Band B	Band C	Band D	Band E	Grand Total
1	3	1	3	4	11
2	1		3	5	9
3		2		1	3

Grand Total	4	3	6	10	23
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Willand:

Bedroom Need	Banding for Willand				Grand Total
	Band B	Band C	Band D	Band E	
1		4	21	19	44
2	1	5	2	14	22
3	1	2		4	7
4		3			3
5	1				1
Grand Total	3	14	23	37	77

Needs Summary for Uffculme and Halberton:

The total number of affordable houses coming forward in Uffculme (including two sites adjoin Uffculme but within the Halberton parish) is known to be 36. These affordable dwellings are coming forward through the following planning permissions:

15/00108/MOUT; 17/01370/MARM – Outline planning permission for 60 houses (Harvesters), with reserved matters pending consideration. This site will provide 21 affordable houses.

17/00300/MOUT – Outline planning permission for 30 houses, adjacent to the Harvesters site – to provide 11 affordable houses.

17/00106/MOUT – Outline planning permission for 16 houses at Ashley Road Uffculme, pending decision, agreement to grant subject to a S106 – this site will provide 4 affordable dwellings.

The 21 affordable dwellings at the Harvesters site is proposed to be jointly prioritised to the parishes of Uffculme and Halberton. The need for Uffculme and Halberton at the current time is 91, or 45 excluding band E. The need for Uffculme and Halberton will not be fully met by the development known to be coming forward in the Uffculme/Halberton area. As such, these developments are highly unlikely to contribute towards meeting the affordable housing need of Willand.

Needs Summary for Willand:

The most up to date figures show a need of 77 affordable houses, 40 excluding band E.

13/00993/FULL – Fir Close provided 7 units in June 2016, all are occupied.

Policy W11 – in the emerging plan which holds very limited weight at this time due to the outstanding objections would provide 13 affordable homes if 30% affordable housing is provided as per the allocation. At the current time there are no timescales for the development of this site; development could be a number of years away.

Application 17/00652/MOUT is pending consideration. This application proposes 10 social rented houses. As this application is yet to be determined it is unclear whether these units will gain permission.

The current pending application and forthcoming allocation, along with the current application (17/01179/MFUL) would provide a total of 51 affordable homes. The applications combined would not meet the total need of Willand which is 77 units. In addition, the current application for 28 homes intends to meet the current need, whereas the timescales for the other developments is unknown. The proposed allocation isn't likely to be complete for a number of years and therefore will not address the current need, but is capable of helping to address any outstanding or future need.

Education contribution:

The education contribution agreed with the applicants is £38,461.50.

(ix) Cllr R F Radford left the meeting at this point.

(f) No 5 on the Plans List (17/01292/FULL – Erection of 3 dwellings following demolition of existing livestock building – land and buildings at NGR 295566 125028 (Veltham Barn) Morebath).

As reported earlier in the meeting this item had been deferred to allow for further information to be provided.

(g) No 6 on the Plans List (17/01395/FULL – Erection of 5 dwellings with associated parking following demolition of industrial units – The Garage, Silverton)

The Principal Planning Officer outlined the contents of the report by way of presentation highlighting the site location plan, 150 metres outside of the settlement limit, (the site being allocated within the emerging Local Plan Review (Policy SI2). He outlined the block plan of the proposal, the existing arrangements, parking provision, visibility splays, elevation and design plans.

Consideration was given to:

- Highway safety and possible overspill of parking onto a busy road
- The lack of a footpath
- The absence of a 5 year land supply
- The efficiency of the site layout
- The design of the proposed dwellings
- The Parish Neighbourhood Plan (which had not been submitted)
- The views of the Highway Authority

RESOLVED that the application be granted planning permission subject to the prior signing of a S106 agreement with regard to:

- Public Open Space contribution of £6,250 allocated to Provision of a new junior multiplay unit at Ellerhayes Play Area, Silverton
- Public Open Space monitoring fee of £110.80
- A contribution of £16,440 [based on the DfE extension rate of £21,921 per pupil] towards additional education infrastructure at the local secondary school
- A contribution of £2,546 towards secondary school transport costs due to the development being further than 2.25 miles from Clyst Vale Community College.

And conditions as recommended by the Head of Planning, Economy and Regeneration with an amendment to Condition 7 to add the following wording “has been submitted to and approved in writing by the Local Planning Authority” at end.

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

Notes:

- (i) Mrs Bennett spoke in objection to the application;
- (ii) Ms Lyle spoke on behalf of the agent;
- (iii) Cllr Mrs J Roach spoke as Ward Member;
- (iv) The following late information was provided:

First Update - Pg 90 bottom of page “roof within the roof” should be room within the roof

Second Update - Pg 95 condition 7 needs to be updated so it reads “**has been submitted to and approved in writing by the Local Planning Authority**” at end.

Full condition should read as follows:

‘7. Prior to development commencing, the applicant shall carry out a detailed investigation, site characterisation and risk assessment aimed at identifying the full extent and type of land contamination present and the measures to be taken to ensure that no significant pollutant linkages will exist on the site following development. The assessment should include for all possible human health, controlled water, ecosystem and building receptors. This will include identifying the presence or lack thereof of any buried fuel storage tanks prior to any site demolition. A report of the investigation and its recommendations shall be submitted for approval to the Local Planning Authority for consultation with Environmental Health Services [and other agencies if required].

If required, a site remediation statement shall be submitted for approval to the Local Planning Authority for consultation with Environmental Health Services

(and other agencies if required). Following completion of any required remediation works, a validation report shall be submitted to the Local Planning Authority for consultation with Environmental Health Services [and other agencies if required]. Development on the site shall not commence until the land contamination investigation report and remediation have been approved in writing. Occupation on the site, or parts of the site affected by land contamination, shall not take place until the validation report has been submitted to and approved in writing by the Local Planning Authority.'

Third Update -

One additional letter of objection received from Ros & Steve Bennett of Elbury House - The objections are summarised as follows:

Concern over insufficient parking for the development and that parking will spill out into the narrow road.

A restrictive covenant requires a turning head to be retained for use of neighbouring residents to the front of the site.

Parking in the area to the front will restrict visibility to residents of neighbouring property exiting onto the road.

The Local Highway Authority objected to a development of a dwelling on this site previously (07/00262/FULL) due to the substandard nature of the approach roads and remoteness of the site.

There is a septic tank, soakaway and drainage field the currently occupies approximately one third of the site which serves Elbury House and is protected.

Fourth Update –

For Members interest, with respect to the allocation of the site within the emerging local plan (Policy SI2 – The Garage, Silverton for 5 dwellings), three representations were received during the Local Plan Review Proposed Submission Consultation in 2015, all being supportive. No further representations were received in 2017 following the Local Plan Submission Consultation.

(h) **No 8 on the Plans List (17/0826/MFUL – *Erection of 3 poultry houses and ancillary buildings following demolition of 2 existing poultry units – Land at NGR 291466 112201 Jurishayes, Withleigh*)**

The Area Team Leader outlined the contents of the report by way of presentation highlighting the site location plan, the existing poultry houses, the proposed levels and access arrangements, the storm water strategy and landscaping of the proposed bund, the existing and proposed elevations and photographs from various aspects of the site

Consideration was given to:

- The height of the proposed poultry house
- The waste management strategy
- Noise levels
- Concerns of local residents with regard to odour, dust and ammonia

- Possible visual impact of the proposal

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

(Proposed by Cllr R L Stanley and seconded by Cllr P J Heal)

Notes:

- (i) Cllr Mrs F J Colthorpe made a declaration in accordance with the Protocol of Good Practice for Councillors in dealing with Planning Matters as she had received correspondence regarding the application;
- (ii) Cllr R J Dolley declared a personal interest as he knew the farmer, was the Ward Member and had been on site;
- (iii) Mr Burgess (Objector) spoke;
- (iv) Cllr R J Dolley spoke as Ward Member.

86 MAJOR APPLICATIONS WITH NO DECISION (4-08-23)

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

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

87 APPLICATION 17/00914/OUT - OUTLINE FOR THE ERECTION OF 9 DWELLINGS WITH ASSOCIATED ACCESS AT LAND AT NGR 277111 102951 SUNNYMEAD, COPPLESTONE (4-10-39)

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

The Area Team Leader outlined the contents of the report reminding the meeting of the issues raised previously, the location of the site, proposed access arrangements, an indicative masterplan for the development and photographs from various aspects of the site. He had provided possible reasons for refusal as requested

He provided answers to questions posed in public question time: he referred to the occupation of the bungalows that were populated by elderly people and stated that there was no planning restriction on the occupancy of those bungalows. He felt that the issues highlighted by local residents were covered within the reasons for refusal within the report

Consideration was given to:

- The fact that this was only one part of the Sunnymead estate
- The occupation of the bungalows
- The proposal was outside the settlement limit and that reason for refusal 1 be used

- Lack of 5 year land supply
- The location of the school an open space adjacent to the development site.

RESOLVED that Planning Permission be granted subject to the signing of a Section 106 Agreement to include:

- Primary school contribution of £30,717 and Secondary school contribution of £5,320 as per DCC request.
- Air Quality contribution of £39,906. To be allocated and spent towards the delivery of the community/sports/village hall proposed at Copplestone.
- Open Space contribution of £10,845. To be allocated and spent towards the delivery of the community/sports/village hall proposed at Copplestone.
- Financial commuted contribution toward the delivery of two affordable housing units following completion.
- Pedestrian link between the application site and the Village school/ Recreation ground campus areas.

With conditions as recommended by the Head of Planning, Economy and Regeneration

(Proposed by Cllr P J Heal and seconded by Cllr Mrs G Doe)

Notes:

- (i) Cllr P J Heal made a declaration in accordance with the Protocol of Good Practice for Councillors in dealing with Planning Matters as he had had discussions with the applicant;
- (ii) Cllrs Mrs C A Collis, R J Dolley, B A Moore and R L Stanley requested that their vote against the decision be recorded;
- (iii) The following late information was reported: Please correct the conclusion and Summary Section (paragraph 2.20) on page 121 so that is clear that the Highway Authority would **NOT** be able to provide support at an appeal situation in order to defend a reason for refusal on highway grounds;
- (iv) *Report previously circulated copy attached to signed minutes.

88 APPLICATION 17/00910/FULL - ERECTION OF 5 DWELLINGS AND ALTERATIONS TO EXISTING BUNGALOW AND ERECTION OF GARAGE, 10 MAYFAIR, TIVERTON (4-36-00)

The Committee had before it a *report of the Head of Planning and Regeneration regarding an application which had been considered but deferred from a previous meeting to allow for a site visit to take place by the Planning Working Group.

The Area Team Leader outlined the contents of the report highlighting the site location plan, the established tree group, the distances between the existing and proposed dwellings in Mayfair, the proposed floor plans and elevations for the dwellings, junction improvements and photographs from various aspects of the site. She also explained via a plan the density of development between Mayfair, the proposed new dwellings and Area B of the Eastern Urban Extension.

The officer then provided answers to questions posed in public question time:

- Following a conversation with the Highways Engineer, under Section 38 of the Highways Act the developer may ask for the private drive to be adopted as there were to be more than 3 dwellings off of a private drive. The developer had elected to have the road adopted.
- The above therefore overcame the issue of waste collection.
- The pedestrian footpath would be provided for the full length of the drive.
- Condition 9 with regard to a landscape plan would overcome the issue of the quality of the screening and the applicant had offered up the use of heavy standards trees.
- An additional condition would overcome any ecological issues
- She reiterated the density of development highlighted in her presentation and that the density would be a transition from Mayfair to Area B of the Eastern Urban Extension

Consideration was given to:

- The concerns of local residents with regard to the access to the site, overlooking and over development issues, the height of the proposed dwellings and that the buildings did not reflect existing properties in Mayfair.
- The distance between the proposed and existing dwellings
- The proposed screening and the offering up of mature trees for screening
- The amenity of local residents
- Access issues

RESOLVED that planning permission be granted subject to the prior signing of a S106 agreement to secure a financial contribution of £7,210 towards off site public open space and conditions as recommended by the Head of Planning, Economy and Regeneration with additional conditions stating that:

The development shall be carried out in accordance with the recommendations and mitigation measures set out in the 'Preliminary Ecological Appraisal' prepared by WYG dated May 2017 and shall be approved by the Local Planning Authority before construction begins.

Reason

To limit the impact of the development on any protected species which may be present

The landscape scheme, to be approved in writing by the Local Planning Authority prior to the commencement of any development, shall provide heavy standard trees.

Reason

In the interest of the character and visual amenity of the area in accordance with Policy DM2 of the Local Plan Part 3 (Development Management Policies).

(Proposed by the Chairman)

(Vote 6 for: 5 against – Chairman's Casting Vote)

Notes:

- (i) Cllr Mrs H Bainbridge, Mrs C A Collis, Mrs F J Colthorpe, Mrs G Doe, R J Dolley, P J Heal, F W Letch, B A Moore, J D Squire and R L Stanley made declarations in accordance with the Protocol of Good Practice for Councillors in dealing with Planning Matters as they had received correspondence regarding this matter;
- (ii) Cllr R J Dolley declared a personal interest as he knew the residents of Mayfair;
- (iii) Mrs Menheneott spoke in objection to the application;
- (iv) Mr Upton (Agent) spoke;
- (v) Cllr C R Slade spoke as Ward Member;
- (vi) Cllrs: Mrs C A Collis, Mrs G Doe, R J Dolley, B A Moore and R L Stanley requested that their vote against the decision be recorded.
- (vii) The following late information was reported: This update is to confirm the density of the proposed development, the density of the existing Mayfair properties and the density proposed through the Adopted Masterplan SPD for Area B of the Tiverton Eastern Urban Extension:

Mayfair as existing (19 dwellings): 7.6 dwellings per hectare
10 Mayfair (5 proposed dwellings and retention of one existing dwelling): 13.6 dwellings per hectare
Area B park edge : 15 to 20 dwellings per hectare

One further email of objection has been received.

One email of objection has been received (to supplement an existing objection). A summary of it as follows: disappointment for the lack of opportunity members of the public had to speak at the Planning Member Working Site Visit; the proposal represents over development of the site; bungalows would be more in keeping; there may be a badger sett on the site which requires additional ecological assessment.

The following condition is recommended for inclusion should planning consent at 10 Mayfair be forthcoming:

The development shall be carried out in accordance with the recommendations and mitigation measures set out in the 'Preliminary Ecological Appraisal' prepared by WYG dated May 2017 and shall be approved by the Local Planning Authority before construction begins.

Reason

To limit the impact of the development on any protected species which may be present

Following the PMWG site visit at which the applicant offered heavy standard trees for inclusion in the landscape scheme to following condition is recommended should planning consent be forth coming:

The landscape scheme, to be approved in writing by the Local Planning Authority prior to the commencement of any development, shall provide heavy standard trees.

Reason

In the interest of the character and visual amenity of the area in accordance with Policy DM2 of the Local Plan Part 3 (Development Management Policies).

One further email of objection has been received.

Please add after it – details to be presented by the objector at public question time.

There is also an objection from a new objector. Please add the following text: An email of objection has been received, summarised as follows: the proposal would represent a loss of privacy and loss of country view.

(viii) *Report previously circulated copy attached to signed minutes.

89 **APPLICATION 15/00108/MOUT - DEED OF VARIATION RELATING TO OUTLINE FOR UP TO 60 DWELLINGS AT LAND AT NGR 305658 112080 (WEST OF HARVESTERS), UFFCULME ROAD, UFFCULME (5-07-47)**

The Committee had before it a *report of the Head of Planning, Economy and Regeneration regarding proposed changes to the S106 agreement entered into in relation to this planning permission.

The Planning Officer outlined the contents of the report stating that the change to the S106 agreement was with regard to the cascade of affordable homes, there had been an oversight in the original agreement in that only Halberton Parish was mentioned and not Uffculme. It was suggested that both Halberton and Uffculme should have joint priority over the affordable housing.

Consideration was given to:

- The number of requests received by the developer from residents of Uffculme
- The application site was within Halberton and therefore the Parish should take priority
- The need for the cascading process to be clear
- The details of the original Section 106 Agreement

RESOLVED that:

- (a) A replacement S106 agreement be approved with regard to the affordable housing cascade: that Halberton be the lead parish followed immediately by Uffculme and that the normal cascade following these priorities take place; and

- (b) Delegated authority be given to the Legal Services Manager to progress the replacement S106 agreement.

(Proposed by Cllr R L Stanley and seconded by Cllr P J Heal)

Notes:

- (i) Cllr R L Stanley declared a personal interest as Cabinet Member for Housing;
- (ii) Mr Coles (Agent) spoke;
- (iii) *Report previously circulated copy attached to signed minutes.

90 **APPLICATION 17/01370/MARM - RESERVED MATTERS FOR THE ERECTION OF 60 DWELLINGS - LAND AT NGR 305658 112080 (HARVESTERS) UFFCULME (5-32-41)**

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

The Planning Officer outlined the contents of the report stating that this was a reserved matters application following the outline application that had been granted at appeal. The application before Members was to seek approval for the appearance, landscaping, layout and scale of the application. She provided a presentation which highlighted the proposed location, the layout, identification of public footpaths, the design of the proposed dwellings, the location of the public open space and attenuation ponds, the tree boundaries which would be strengthened, parking provision, the tenure plan which identified the affordable housing on site, the highway adoption plan, elevations and different house types. Photographs were also provided from different aspects of the site.

Consideration was given to:

- The work that had taken place between the developer, the local parish council and Uffculme residents.
- The involvement of the Design Panel
- The fact that the proposal was attractive and refreshing and had considered the views of local residents.

RESOLVED that planning permission be granted subject to conditions as recommended by the Head of Planning, Economy and Regeneration with an additional condition stating that: The development hereby approved shall be carried out in accordance with the submitted floodplain compensation scheme as shown on drawing 16407-052 Rev B, the scheme shall be implemented in full prior to the construction of residential plots 31 and 32 and shall be retained and maintained as such thereafter.

Reason – To ensure adequate compensatory floodplain storage is provided in accordance with Policy COR11 of the Mid Devon Core Strategy (Local Plan Part 1).

(Proposed by Cllr R L Stanley and seconded by Cllr Mrs G Doe)

Notes:

- (i) Cllr R L Stanley declared a personal interest as Cabinet Member for Housing;
- (ii) Mr Crosby spoke on behalf of the applicant;
- (iii) The following late information was reported: A revised flood compensation storage scheme has been submitted. The Environment agency have provided further comments in relation to the scheme and have confirmed that the floodplain compensation scheme submitted satisfies their concerns about the small loss of floodplain storage resulting from the development. The scheme shall be fully implemented as approved and the works should be undertaken prior to the construction of plots 31 and 32.

On this basis an additional condition is proposed:

The development hereby approved shall be carried out in accordance with the submitted floodplain compensation scheme as shown on drawing 16407-052 Rev B, the scheme shall be implemented in full prior to the construction of residential plots 31 and 32 and shall be retained and maintained as such thereafter;

- (iv) *Report previously circulated copy attached to signed minutes.

91 **APPLICATION 17/01509/MFUL ERECTION OF 39 DWELLINGS FOLLOWING DEMOLITION OF EXISTING GARAGES AND ADJACENT SUBSTRUCTURE, TOGETHER WITH BIKE STORAGE, UNDERGROUND CAR PARKING, LANDSCAPING AND ASSOCIATED WORKS - LAND AND BUILDINGS AT NGR 295350 112455 (REAR OF TOWN HALL) ANGEL HILL TIVERTON (5-32-41)**

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

The Area Team Leader outlined the contents of the report highlighting by way of presentation the application, the site location plan and the 3 previous consents on the site that had not come to fruition. Members viewed the site location plan, a plan showing the 14 affordable dwellings that had already been built as part of the allocation on the site, the proposed roof plans, photographs of the site and an impression of the development, an impression of the internal street scheme supplied by the architects and proposed views from Westexe looking back into the site towards the Town Hall and St Georges Church. She highlighted the site elevations, the landscape sections, the layouts of the upper level, ground floor and lower grounds floors and elevations of the dwellings and apartment blocks.

She then provided answers to questions posed within public question time:

- Her report had been written independently, it was a professional report based on the facts of the application.
- She had collated all the information available and had contacted residents.
- She had acted to assist the developer to overcome outstanding issues as she would with any application.

- It was correct that the land fell within Flood Zone 3 and the Environment Agency were aware.
- A flood risk assessment had been provided and recommendations had been made for additional conditions including the provision of flood warning signs particularly to the under storey area which could be prone to flooding.
- With regard to the site being considered as the 5th most likely site for flood risk in 2009, she had not read that but in 2017 the site was sequentially sound.

Consideration was given to:

- Whether the linking bridges were covered
- The number of lifts
- Accessibility for disabled people
- The steepness of the site
- The views of the objector with regard to the possibility of a town centre garden, the size of the development, access issues, lack of planting, the impact of the development on Ham Place
- The comments of Historic England
- The need to develop the site

RESOLVED that planning permission be granted subject to conditions as recommended by the Head of Planning, Economy and Regeneration with an amendment to Condition 11 to read: 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 in accordance with the principles of sustainable drainage systems, and those set out in the Flood Risk Assessment (Ref. L1008-C-RP-0001; Rev. 03; dated 24th November 2017), Webb Yates Sketch Showing Proposed Alternative Drainage Strategy (drawing No. L1008-C-SK-0035-00-59; dated 29th November 2017), Webb Yates Mark-up Showing Flood Exceedance Routes (drawing No. L1008-C-SK-0034-00-59; dated 29th November 2017) and Civil & Structural Engineering Stage 3 Report (Ref. L1008-S-RP-0001; Rev. 01; dated 24th November 2017).

Reason: To ensure that surface water runoff from the development is managed in accordance with the principles of sustainable drainage systems and in the interests of ensuring that adequate drainage is provided to serve the development and to reduce the risk of pollution in accordance with Policy DM2 of the Mid Devon Local Plan Part 3 (Development Management Policies).

With additional conditions to read:

The proposed estate road, footways, verges, junctions, street lighting, sewers, drains, service routes, surface water outfall, road maintenance/vehicle overhang margins, 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 in accordance with policy DM2 Local Plan Part 3 (Development Management Policies)

No part of the development hereby permitted shall be commenced until details of the exceedance pathways and overland flow routes across the site in the event of rainfall in excess of the design standard of the proposed 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 surface water runoff generated from rainfall events in excess of the design standard of the proposed surface water drainage management system is safely managed.

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.

Prior to their installation, details of the link bridges between blocks E to F and G to H, at first and second floor levels and details of the balustrading for the balconies within blocks E, F, G and H shall be submitted to and approved in writing by the Local Planning Authority. The link bridges and the balconies shall be completed in accordance with the approved details and shall be so retained.

Reason: To ensure the use of materials and detailing appropriate to the development in order to safeguard the visual amenities of the area and the character and appearance of the conservation area in accordance with policies DM2 and DM27 Local Plan Part 3 (Development Management Policies).

No part of the development hereby permitted shall be commenced until a detailed surface water drainage management plan for the full period of the development's construction, has been submitted to, and approved in writing by, the Local Planning Authority, with consultation with Devon County Council as the Lead Local Flood Authority. This temporary surface water drainage management system shall then be constructed in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority, with consultation with Devon County Council as the Lead Local Flood Authority, and shall thereafter be so maintained.

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

The development shall be carried out in accordance with the Conservation Action Statement prepared by Acorn Ecology Ltd received 29th November 2017.

Reason: To protect the habitats of protected species in accordance with policy DM2 Local Plan Part 3 (Development Management Policies).

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

Notes:

- (i) Cllr R L Stanley declared a personal interest as a Director of the 3 Rivers Development Company and chose to leave the meeting during the discussion thereon;
- (ii) Mr Davey spoke in objection to the application;
- (iii) Cllrs R J Dolley and F W Letch requested that their vote against the decision be recorded;
- (iv) The following late information was reported: additional conditions added above:

The proposed estate road, footways, verges, junctions, street lighting, sewers, drains, service routes, surface water outfall, road maintenance/vehicle overhang margins, 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 in accordance with policy DM2 Local Plan Part 3 (Development Management Policies)

No part of the development hereby permitted shall be commenced until details of the exceedance pathways and overland flow routes across the site in the event of rainfall in excess of the design standard of the proposed 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 surface water runoff generated from rainfall events in excess of the design standard of the proposed surface water drainage management system is safely managed.

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.

Prior to their installation, details of the link bridges between blocks E to F and G to H, at first and second floor levels and details of the balustrading for the balconies within blocks E, F, G and H shall be submitted to and approved in writing by the Local Planning Authority. The link bridges and the balconies shall be completed in accordance with the approved details and shall be so retained.

Reason: To ensure the use of materials and detailing appropriate to the development in order to safeguard the visual amenities of the area and the character and appearance of the conservation area in accordance with policies DM2 and DM27 Local Plan Part 3 (Development Management Policies).

Condition 11 was amended verbally and two additional conditions included in the resolution were added verbally at the meeting.

(v) *Report previously circulated copy attached to signed minutes.

92 **PLANNING PERFORMANCE AGAINST TARGETS - QUARTER 2 (6-30-34)**

The Committee had before it and **NOTED** a * report of the Head of Planning, Economy and Regeneration providing information on the performance of aspects of the planning function of the Council for quarter 2 – 2017/18.

The Group Manager for Development outlined the contents of the report stating that performance was continuing to meet targets and some of the key targets were being exceeded.

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

(The meeting ended at 9.25 pm)

CHAIRMAN

PLANNING COMMITTEE – 3 JANUARY 2018

ENFORCEMENT REPORT LIST

1. ENF/17/00076/COU - Untidy site having an adverse effect upon the visual amenity of the locality arising from the unauthorised deposition of excavated soil on the land. Land at NGR 296197 122000, Ashleigh Park, Bampton, Devon.
2. ENF/16/00243/UDRU - Erection of two storey building in rear garden. 6 Forestry Houses. Chenson, Chulmleigh, Devon

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Case No. ENF/17/00076/COU

Grid Ref: 296197 122000

Address:

Land and Buildings at NGR 296197 122000, Ashleigh Park, Bampton, Devon

Alleged Breach:

Untidy site having an adverse effect upon the visual amenity of the locality arising from the unauthorised deposition of excavated soil on the land.

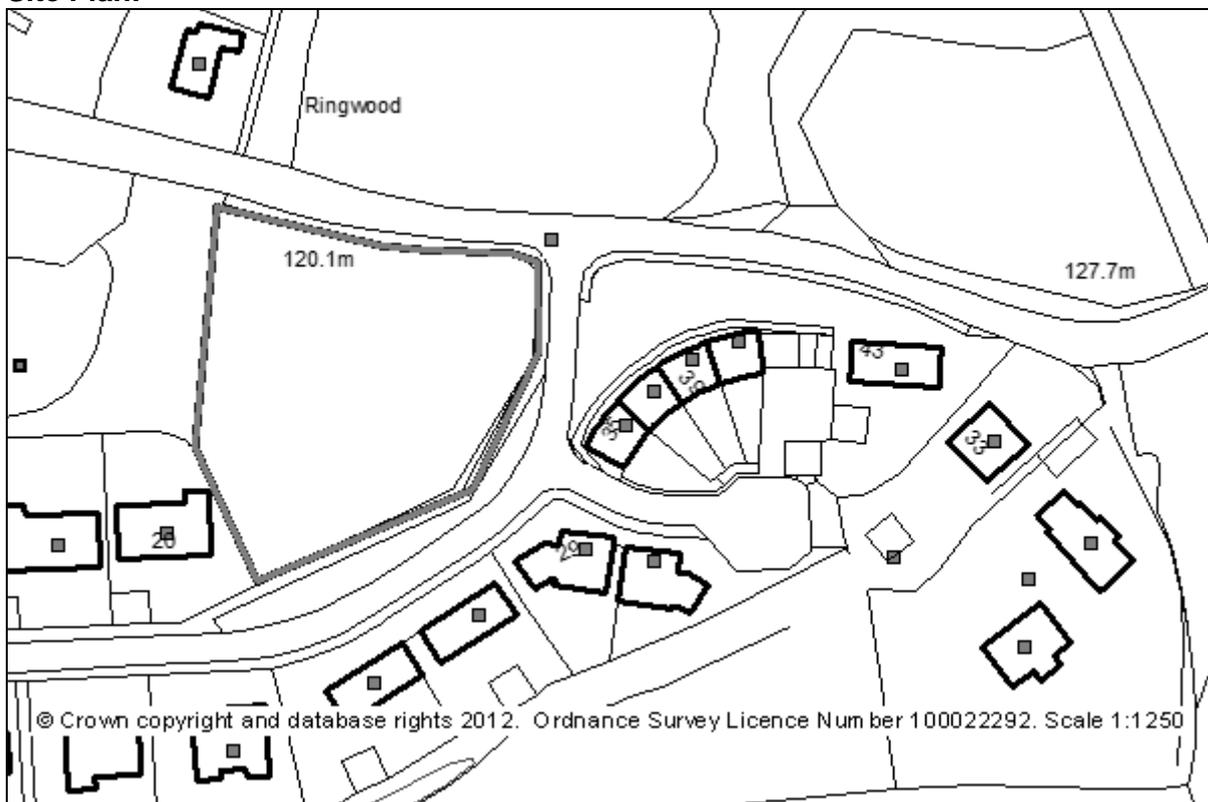
Recommendation:

That Members having considered that the condition of the land identified in this report is having an adverse effect on the locality grant authority to the Legal Services Manager to take all such steps and action necessary to secure the improvement of the appearance of the land, including the issue of a Section 215 (Untidy Site) Notice and prosecution and/or Direct Action in the event of non-compliance with the notice.

Site Description:

The site sits within the parish of Bampton and occupies a corner plot of land at the junction of Old Tiverton Road and Ashleigh Park.

Site Plan:



Site History:

14/00140/OUT	Outline for the erection of 4 bungalows; levelling of site; formation of access and landscaping	PERMIT
14/01441/FULL	Engineering works to remove The Knoll and levelling and compaction of site	PERMIT
17/00525/ARM	Reserved Matters for the erection of 4 bungalows and garages following Outline approval 14/00140/OUT	PERCON
17/01671/FULL	Erection of 7 dwellings (Revised scheme following previous permissions granted under 17/00525/ARM, 14/00140/OUT, 98/00887/ARM, and 95/00220/OUT)	PCO

Development Plan Policies:

None Relevant to this matter

Reasons/Material Considerations:

In April 2017, a complaint was passed to the enforcement team regarding the deposition of excavated material on land at the junction of Ashleigh Park and Old Tiverton Road, Bampton. The excavated material, primarily soil, resulted from engineering works associated with application 14/01441/FULL to remove the knoll and level the land immediately to the west of the site subject to this report. The concerns expressed by local stakeholders relate to the unsightly appearance of the spoil mound in such close proximity to residential properties.

The landowner's agent has confirmed that the storage of the excavated material in the spoil heap was a temporary arrangement whilst arrangements are made for it to be exported away from the site. At no time in the discussions with the agent has it been confirmed that the material in the spoil heap would be used to facilitate the implementation of the approved scheme of development for the wider site which has stated above has the benefit of extant planning permissions to build 8 houses on it. Although and also as stated above there is a current planning application pending consideration to rework the scheme for 7 bungalows.

Despite several requests to the landowner's agent to complete the removal of the spoil heap at the time of writing, the earth mound remains on the land. On this basis it is therefore your officer's view that the landowner has had the opportunity to resolve this matter voluntarily, but has failed to do so. The Council has a duty to consider the expectations of the local residents who have expressed a view that the earth mound presents as an unsightly and incongruous feature within the street scene resulting in a detrimental impact upon the visual amenity of the locality.

It is, therefore, proposed that a Section 215 (Untidy Site) Notice should be served, securing an improvement in the condition of the land. Members are advised that failure to comply with the terms of a Section 215 Notice is an Offence for which the landowner may be prosecuted in the Magistrates Court.

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 any form of Notice to redress the issue is discretionary and should only be used where the Local Planning Authority (LPA) are satisfied that there is a reason to do so. The LPA must also be satisfied that it is expedient to issue the Notice. Consequently the Council must decide based on the particular circumstances of each individual case the question of expediency. The decision to take action must be reasonable and not based on irrational factors or taken without proper consideration of the relevant facts.

Reasons for Issuing the Notice:

The concern in this case is regards the presence of the spoil heap and the impact that it has on the visual appearance of the land, resulting in an adverse effect on the amenities of the area.

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Case No. ENF/16/00243/UDRU

Grid Ref: 269351 110488

Address:

6 Forestry Houses, Chenson, Chulmleigh, Devon

Alleged Breach:

Erection of two storey building in rear garden

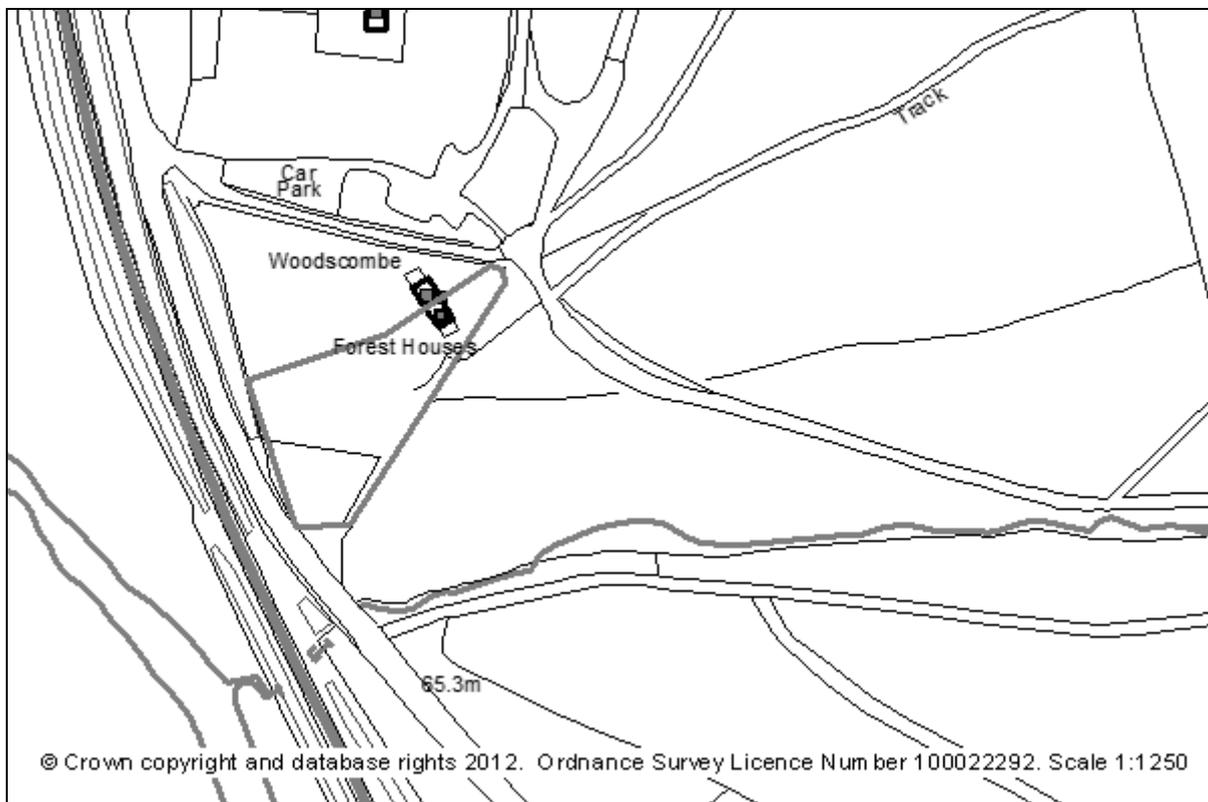
Recommendations:

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 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.

Site Description:

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

Site Plan:



Site History:

17/01487/HOUSE Retention of replacement two-storey outbuilding REFUSE

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)

Policy DM13 - Residential extensions and ancillary development

Policy DM31 - Planning Enforcement

Reasons/Material Considerations:

On 9 August 2017, a report was presented to the planning committee seeking authorisation to commence enforcement action to secure the demolition and removal of an unauthorised two storey building located within the rear garden of 6 Forestry Houses, Eggesford. Members will recall that the committee resolved to defer its decision to allow the landowner a period of three months in which to submit a retrospective planning application seeking to regularise the unauthorised development.

The application was submitted on 8 September 2017 under reference 17/01487/HOUSE and subsequently refused at planning committee on 29 November 2017. The planning officer's report provides the following reasons for refusal:

Reason 1:

The development by virtue of its siting, scale and massing represents an incongruous feature on the site and furthermore contributes towards an unnecessary proliferation of built structures within this part of the countryside. For these reasons the development as it has been constructed is considered to be harmful to the overall character and appearance of the countryside contrary to Policies DM13 of the Local Plan Part 3 Adopted 2013 and Policy COR18 of the Mid Devon Core Strategy Adopted 2007. At the time of this decision the application site contained a single storey timber cabin building used as ancillary domestic accommodation, a pitched roof timber outbuilding with double doors used for the storage of building materials and a motorbike, a timber pitched roof field shelter, a timber store building and a small lean-to extension providing ancillary storage for the main dwelling. It is not considered that the applicant has submitted a case that there is need for further accommodation at the site, and without such justification to grant planning permission for the proposals, would be contrary to Policy DM13 and COR18 as stated above.

Reason 2:

The use of the building as proposed is for a workshop space with domestic storage over and a potting shed. The proposed development by virtue of its design, number of window openings, presence of double glazing, covered deck area and internal finishes including domestic wiring and plaster boarding is more akin to ancillary residential accommodation which due to its remoteness from the principal dwelling and the presence of other ancillary residential structures at site would not be permitted in this location

It remains your officer's view that the unauthorised development represents a breach of planning control which could, if no action is taken, become immune from enforcement action through the passage of time. It is, therefore, proposed that an Enforcement Notice should be served, in respect of the unauthorised development.

Human Rights and Equality Issues:

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

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

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

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

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

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

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

Reasons for Issuing the Notice:

It appears to the Council that this breach of planning control has occurred within the last four years. This breach is in relation to the erection of a two storey building on the land, without the benefit of planning consent. The Council has concerns that the building may now, or in the future, be occupied as a separate unit of residential accommodation. The development by virtue of its siting, scale and massing represents an incongruous feature on the site that is considered to be harmful to the overall character and appearance of the open countryside.

The development represents an over-development of the site having an adverse impact of the residential amenity of the immediate neighbours, and furthermore, would be contrary to policy controlling new development in the open countryside. The development is, therefore, considered to be contrary to Policies DM13 and DM31 of the Mid Devon Local Plan Part 3 and Policy COR18 of the Mid Devon Core Strategy.

PLANNING COMMITTEE AGENDA - 3rd January 2018

Applications of a non-delegated nature

<u>Item No.</u>	Description
01.	<p>17/01660/MOUT - Outline for the erection of 10 dwellings at Land at NGR 287219 106314, Barnshill Close, Cheriton Fitzpaine.</p> <p>RECOMMENDATION Grant permission subject to conditions and the signing of a S106 agreement</p>
02.	<p>17/00652/MOUT - Outline for a mixed development of 30 dwellings, commercial buildings, access, public open space, landscaping, and associated works at Land at NGR 303116 110179 (NE of Rydon House), Willand, Devon.</p> <p>RECOMMENDATION Grant permission subject to conditions and the signing of a S106 agreement</p>
03.	<p>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 at Land and Buildings at NGR 304296 107112, Newlands Farm, Cullompton.</p> <p>RECOMMENDATION Grant permission subject to conditions and the signing of a S106 agreement</p>
04.	<p>17/01700/FULL - Change of use of ground floor common room to a one bedroom flat at Common Room (Ground Floor of Flat 41), Broad Lane, Tiverton.</p> <p>RECOMMENDATION Grant permission subject to conditions.</p>
05.	<p>17/01792/LBC - Listed Building Consent to replace two windows with patio door on west elevation and creation of cupboard and shower room on first floor at Old Bartows, Bartows Causeway, Tiverton.</p> <p>RECOMMENDATION Grant Listed Building Consent subject to conditions.</p>

Application No. 17/01660/MOUT

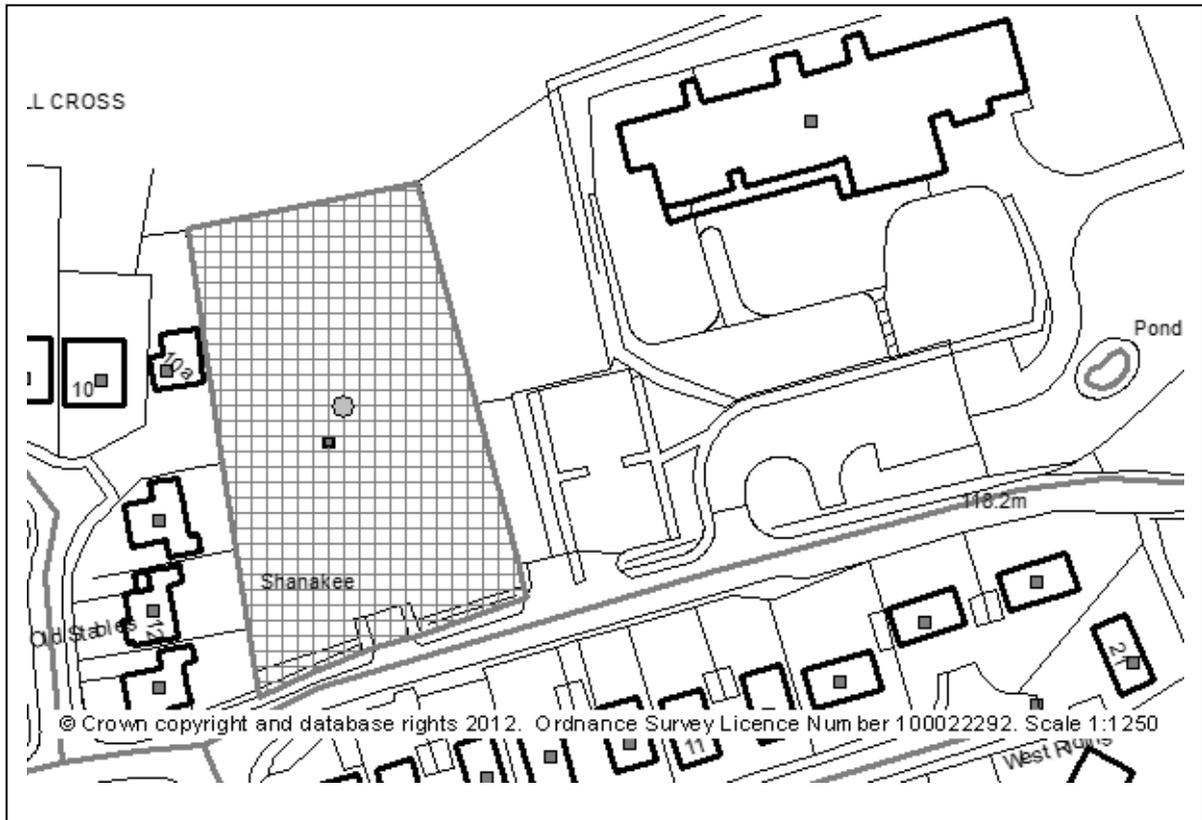
Grid Ref: 287219 : 106312

Applicant: Rosebourne Country Homes Ltd

Location: Land at NGR 287219 106314
Barnhill Close
Cheriton Fitzpaine
Devon

Proposal: Outline for the erection of 10 dwellings

Date Valid: 18th October 2017



APPLICATION NO: 17/01660/MOUT

RECOMMENDATION

Grant permission subject to conditions and the prior signing of the provision of a S106 agreement to secure:

1. Affordable Housing: 30% affordable housing on-site (3 units).
2. A secondary school contribution of £5,377.00 towards school transport to Queen Elizabeth's Academy Trust.
3. To provide a contribution of £8,425.00 towards the provision of off-site open space.

PROPOSED DEVELOPMENT

Outline for the erection of 10 dwellings. The application is submitted in outline with all matters reserved except access. Appearance, landscaping, layout and scale would be dealt with at the next planning stage (reserved matters).

The site is approximately one third of a hectare (approximately 46.0 metres x 76.0 metres) in extent and is rectangular in form located between Barnshill Close (adjacent on the western boundary) and the Village Primary School site separated by a single field area (adjacent on the eastern boundary). The southern boundary with a frontage of approximately 46 metres presents directly to the highway with an existing access from the highway already formed and set out. The site slopes down from the northern boundary to the highway with an overgrown field boundary hedgerow providing the boundary treatment. There is also a gated point of access into the site directly from the Barnshill cul-de-sac.

The application as submitted is supported by a site layout drawing (amended) which presents an illustrative layout based on the means of access as proposed

APPLICANT'S SUPPORTING INFORMATION

Application form, site location plan and site layout drawing no: 7722/16/04/revision D prepared by Design Solutions.

Design and Access Statement prepared by Clifton Emery Design prepared by Design Solutions.

Planning Statement prepared by WYG.

Phase 1 Habitat Survey Report (July 2016) and Reptile Presence /Likely Absence Report (July 2016) both prepared by WYG.

Surface Water Drainage Strategy (plus figure) prepared by RMA Environmental.

Support further information from WYG (dated 28th November), including revised site layout drawing and proposed heads of terms to be included in a Section 106 agreement – as clarified above.

RELEVANT PLANNING HISTORY

The case reference below relates to the current application site in part, and also land adjacent and

was for the erection of nine detached dwellings.
92/00694/FULL - REFUSE date 1st September 1992

The case references below relate land adjacent at Barnshill close as now built out:
82/01344/FULL, 86/00570/FULL, 96/01772/FULL, 97/01556/FULL, 02/00165/OUT: All permitted.

The case reference below relates to land to the east of the Village primary School site.
17/00173/MOUT: Outline for the erection of up to 28 dwellings and up to 90 square metres of A1 retail floorspace, including incidental open space and car parking. Presented to the Planning Committee and approved subject to conditions and the completion of S106 agreement on 14.06.2017.

DEVELOPMENT PLAN POLICIES

Mid Devon Core Strategy (Local Plan 1)

COR1 - Sustainable Communities
COR3 - Meeting Housing Needs
COR8 - Infrastructure Provision
COR9 - Access
COR11 - Flooding
COR12 - Development Focus
COR17 - Villages
COR18 - Countryside

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

AL/DE/2 - Overall Affordable Housing Provision
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

CONSULTATIONS

CHERITON FITZPAINE PARISH COUNCIL - 30th November 2017 – No objections.

The Parish Council wish to urge that the onsite provision or provision (Affordable Housing) to be made within Cheriton Fitzpaine

Highway Authority – 28th November 2017 – No objections.

Happy with the plans but just a small correction. At the access we are proposing vehicle crossover style access with priority to pedestrians.

These comments supersede the original comments made by the Highway Authority on the 9th November 2017 when the Highway Authority raised a number of concerns about the proposed new access/highway design details.

Further comments of the Highway Authority - 5th December: Recommendation as follows.

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. When once constructed and provided in accordance with condition 1 above, the carriageway, vehicle turning head, footways and footpaths shall be maintained free of obstruction to the free movement of vehicular traffic and pedestrians and the street lighting and nameplates maintained to the satisfaction of the Local Planning Authority

REASON: To ensure that these highway provisions remain available.

ENVIRONMENTAL HEALTH - 31st October 2017 - Contaminated Land - No objection to this proposal

Air Quality - No objection to this proposal

Environmental Permitting - No objection to this proposal

Drainage - No objection to this proposal

Noise & other nuisances - Before the commencement of development, a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority. The CEMP shall identify the steps and procedures that will be implemented to minimise the creation and impact of noise, vibration, dust and waste disposal resulting from the site preparation, groundwork and construction phases of the development and manage Heavy/Large Goods Vehicle access to the site.

It shall include details of the hours of operation and measures to be employed to prevent the egress of mud, water and other detritus onto the public and any non-adopted highways.

Once approved the CEMP shall be adhered to at all times, unless otherwise first agreed in writing with the Local Planning Authority.

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.

DCC LOCAL FLOOD/COASTAL RISK MANAGEMENT - 23rd November 2017 - No objections.

Observations:

The applicant has submitted outline plans for an attenuation based surface water runoff management system. This will be acceptable, subject to detailed design and other conditions as set out above, should the requested percolation tests show that infiltration is not suitable for this site. 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:

1. 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.

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

2. 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 in accordance with the principles of sustainable drainage systems, and those set out in the Surface Water Drainage Strategy (Report Ref. RMA-RC1760, Rev.1, dated 25/09/17).

Reason: To ensure that surface water runoff from the development is managed in accordance with the principles of sustainable drainage systems.

3. 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 surface water off from rainfall events in excess of the design standard of the proposed surface water drainage management system is safely managed

4. No part of the development hereby permitted shall be commenced until details of the exceedance pathways and overland flow routes across the site in the event of rainfall in excess of the design standard of the proposed 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 surface water runoff generated from rainfall events in excess of the design standard of the proposed surface water drainage management system is safely managed.

DEVON COUNTY EDUCATION - 2nd November 2017 - The above application is for 10 family-type dwellings, which will generate an additional 2.5 primary pupils and 1.5 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 Queen Elizabeth Academy. The costs required are as follows: -

2 secondary pupils

£2.83 per day x 2 pupils x 190 academic days x 5 years = £5377

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.

DEVON, CORNWALL & DORSET POLICE - 6th November 2017

The Police have no objections in principle to this proposal. It is appreciated that at this time it is an outline application; as such I am unable to comment in depth as the available drawings do not reveal many details that would be of concern to the police. Their comments provide a useful checklist at the reserved matters stages and will be brought to the applicant's attention.

THE HOUSING OPTIONS MANAGER - 23rd November 2017

In response to what type of affordable housing should be secured, the LA Specialist manager has commented as follows:

Based upon the current demand for Cheriton Fitzpaine we only have 5 applicants on the waiting list, of which the demand is for 1 bedroom properties only. These applicants are requiring level access or bungalows (over 55's accommodation).

I would therefore say that affordable purchase should be considered, unless the affordable rented are bungalows.

REPRESENTATIONS

Consultation letters were sent out to neighbours when the application was first submitted. In total 14 letters of objection have been received and a summary of the comments submitted are set out below:

1. A range of housing types and sizes should be included.
2. The parking arrangements for the frontage plots is questionable.
3. The scheme should include affordable housing on site – this issue has come across very strongly in the comments as submitted.
4. The site falls outside the existing settlement boundary.
5. 10 units on the site is considered to be overdevelopment.
6. Highway safety concerns given site location adjacent to primary School entrance and the additional traffic that would generated.
7. The Village is lacking in facilities.
8. Plot 10: The unit is shown very close to the adjoining house at 10A Barnshill Close.

Case officer note: the plans have been revised to show a correct relationship with regards to No.10A

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The main issues in the determination of this application are:

1. Principle of development, including 5 year land supply - Policy Issues.

The site is outside defined settlement limits of the adopted local plan and is therefore contrary to Policy COR17 and COR18 of the Core Strategy (adopted 2007). However the application proposal reflects the direction of travel of policy as set out in the Local Plan Review (2013-2033). With the proposed policy framework the site is promoted (Policy CF1) for 7 dwellings with 30% affordable housing.

Other policies in the development plan that need to be considered in the assessment of the application scheme are policy COR1 of the Mid Devon Core Strategy (LP1) which 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. COR8 with COR9 seeking to improve accessibility by reducing the need to travel by car and increasing public transport use, cycling and walking.

Policy AL/IN/3 of the AIDPD seeks to provide at least 60 square metres of public open space for each new market dwelling and to contribute to the provision and maintenance of existing and new open space.

Policy AL/IN/5 states that new housing development must cover the cost of additional education facilities where the development would lead to existing facilities being oversubscribed

In terms of determining how much weight can be given to the fact the application site is not as a matter of principal supported by a current adopted development plan policy.

Furthermore, The National Planning Policy Framework (referred to NPPF hereafter) 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. On this basis policies COR17 and COR18 are set aside and provisions of paragraph 14 of the NPPF is triggered. Paragraph 14 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. Housing applications need therefore to be considered in the context of sustainable development. This is reflected in policy DM1 of the Local Plan 3 Development Management Policies which takes a positive approach to sustainable development.

The proposals build on the draft allocation under proposed policy CF1 of the Local Plan Review but includes 10 houses against a proposed policy target of 7. In summary on this part of the assessment it is concluded that the density of development could be achievable (refer also to comment at section 3 below: Local context considerations, impact on landscape character and visual amenities and density of development).

The following sections of this report consider the impacts of the development when considered against the objective of delivering sustainable development, the extent to which the scheme is compliant with the range of other development plan policies, and finally weighs in the balance the benefits of the proposal against any identified harm.

2. Highway, Transport and Movement Issues

The proposed means of access to site from the main street that runs through the Village, as opposed to using the access from the existing Barnshill cul-de-sac. The Highway Authority has made comments in support of the planning application in terms of the proposed access as it is shown on drawing 04D and the scope of visibility that is achievable at the junction with the highway. Conditions are recommended to control the delivery of the proposed access arrangement and the construction of the proposed scheme, to incorporate the comments from the highway authority.

Capacity: Given the scale of the development proposed, based on an assessment against the TRICS database it is predicted that up to 7 vehicular movements in and out of the site would be generated. This is not considered significant, individually and/or cumulatively with the consented development under LPA ref: 17/00173/MOUT, in terms of the capability of the network to accommodate this additional low level of traffic that would be generated. Furthermore it is noted that the Highway Authority have not raised any concerns in terms of the network accommodating the additional flows with this application.

Pedestrian: The site is located with pedestrian footways already in situ. As stated above the access to the site is proposed as a vehicle crossover style access with priority to pedestrians.

Public Transport: There are a number of bus routes that serve the village on a limited basis including to Crediton, Tiverton and Exeter. In addition the applicant there a school bus to transport pupils from the Village to Crediton, and the applicant has agreed to contribute towards the cost of secondary school transport.

In summary the proposals are considered to be in compliance with policy COR9.

Parking: The indicative site layout demonstrates that the site could be developed for 10 dwellings and ensure compliance with policy DM8 in terms of providing 2 spaces either on site or adjacent to site.

3. Local context considerations, impact on landscape character and visual amenities and density of development

The application scheme is an outline application and proposes a maximum of 10 houses. The proposed site layout (albeit illustrative) demonstrates how this quantum of development could be achieved across the site with 5 smaller sized plots set around the site entrance and then 5 larger units set in more generous plots beyond. No formal open space is proposed other than the verge to the highway, with a cellular storage tank under the first section (22.0 metres) of the highway to provide for surface water run-off, which would function as part of the Sustainable Urban Drainage (SUD's) scheme as proposed.

The number of houses proposed exceeds the draft policy guidance for the site which promotes the site for 7 dwellings. However, even with 10 dwellings proposed the density of development would equate to just above 33 units per hectare which would be considered to be in accordance with guidance as set out at policy COR1 for Village locations which promotes a density range of between 30-40 dwellings per hectare.

The development would sit between an agricultural field /the school village campus and Barnshill Close. No 10A presents side on to the site and no's 11, 12 and 13 present with the rears of the dwellings facing directly adjacent to the site. Therefore although the site falls beyond the settlement boundary as detailed, it will present as a new development within the village envelope.

The design and access statement sets out the rationale for the planning application proposals which is based on frontage units adjacent to the highway with larger units to the rear to broadly replicate the other developments in the village which have achieved barn style conversions around an informal courtyard arrangement creating a pedestrian friendly environment in terms of the proposed access arrangements, including: a pedestrian cross over at the site entrance, reduced width for carriageway design with footway/grass verges incorporated and rumble strips to slow traffic speeds.

The proposed height of the dwellings is propose as up to 2 storey dwellings to reflect the scale of the

dwellings adjacent at Barnhill Close, and a range of terrace, semi-detached and detached house types are proposed. In terms of the smaller plots the indicative layout plan demonstrates that there is sufficient frontage to accommodate this quantum of development: 12.4 metres for the units on plots 1 and 2 and approximately 17.5 metres for the units on plots 3-5. The illustrative layout presents a concept design has been designed to accommodate a variety of residential house types and sizes, providing a broad range of unit sizes. This layout illustrates a net density of approximately 33 density per hectare. At this level of the density it is possible to create a development appropriate to its context. Landscaping, appearance, layout and scale will be dealt with as reserved matters.

In summary, at this stage of the planning process the applicant is not seeking to provide the level of information in terms of the siting, layout and design of the scheme to enable an assessment to be undertaken in terms of resolving if the criteria outlined at policy DM2, DM8 and DM14 have been satisfactorily met. However based on the information submitted in terms of the layout and the parameters identified in the Design and Access it is considered by officers that if the application was to be supported at this outline stage, the level of development proposed (up to 10 houses) could reasonably be expected to be delivered in a manner which would sit comfortably within the locality and not adversely affect the landscape character and/or visual amenities. As part of this process the applicant is advised that parking provision should be made on plot or adjacent to plot and not within courtyard arrangements which are not supported from a policy point of view.

4. Section 106/Affordable housing issues

In the recommendation section of this report above the heads of terms for inclusion within a section 106 agreement are set out, in order to ensure that the development complies with relevant parts of the development plan framework (COR8 - Infrastructure Provision, AL/DE/3 / CF1 (proposed modifications) - Affordable Housing Site Target, AL/IN/3 - Public Open Space, AL/IN/5 - Education).

It is considered that the requirements of Policy AL/DE/3 in this case should be superseded by the requirements of emerging Policy CF1 which establishes an affordable housing target of 30%, and although the policy framework would allow this provision to be made off site and as a commuted payment, the applicant has agreed to meet this policy requirement with on-site provision. This matter has been highlighted by nearly all the stakeholders who made comments about the application, and the delivery of three affordable units in accordance with the recommendations of the Authorities Housing Options manager is considered to be a significant community benefit arising from the application scheme.

The applicant has also agreed to provide a commuted sum towards providing transport costs associated with secondary school education) based on an amount per qualifying unit, which as stated above is just under £6,000.00.

In terms of addressing policy AL/IN/3 (public open space) the applicant has agreed to provide a financial contribution to enable off site provision/enhancement of the existing as set out above. In this case the contribution would be spent improving the facilities at the Under 11's play area, Landboat View.

5. Other Matters

Contaminated Land Issues: There are no concerns regard the suitability of the site to accommodate the proposals.

Flood Risk Issues: The development area is all contained within land that is classified as Flood Zone 1, land with the lowest probability of flooding.

Surface Water Drainage Issues: The application is supported by a Surface Water Drainage Strategy which incorporates the provision of an underground storage tank which will operate to manage the discharge of surface water from the site in acceptable manner. The Lead Flood Authority have confirmed that subject to the detailed design aspects which are covered by conditions 8-11 they are supportive of the proposed development.

Ecological Impacts: The site predominantly comprises managed grassland with hedgerows planted on all of its borders with some areas of dense scrub and scattered trees. On behalf of the applicants, WYG have completed a walk over survey of the site (carried out on 29th April 2016) in addition to desk top analysis. The results are set out in a their report dated July 2016, and confirm the following:

- No evidence of Badgers present but the site provides suitable foraging opportunities.
- No evidence of Bats roosting on the site and/or any that the site presents suitable roosting opportunities, but potential for commuting.
- No evidence of and/or opportunities on the site were identified for barn owls, great crested newts or dormice.
- No evidence of reptiles were identified, although the site as at presents comprises an environment suitable for slow worms and/or grass snakes.

Reflecting on the last point the applicant has submitted a mitigation strategy in the event any reptiles are identified.

New Homes Bonus: 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).

6. Summary & Planning balance

The overall thrust of Government policy as set out in the National Planning Policy Framework (NPPF) is to encourage the delivery of sustainable development and requires local authorities to boost significantly the supply of housing.

This application reflects the emerging local policy framework which covers the period 2013 - 2033. The proposals offer a modest increase in the numbers of houses compared to the emerging policy provisions for the site. In terms of the site planning and initial design work undertaken at this outline planning application stage it has been demonstrated that the site can accommodate up to 10 dwellings (incorporating a level of parking which is policy compliant) This quantum of development achieve a development in density terms which reflects that set out at policy COR1.

The assessment of this planning application has not identified any significant adverse impacts that would arise from the number of dwellings proposed, in terms of highway safety impacts, flooding, heritage and/or ecological concerns. In terms of specific additional benefits the application scheme will deliver 30% of affordable housing on site (which is not a policy requirement) and a financial contribution towards improving local play facilities in the Village.

Although some local residents consider that the scheme will result in highway safety concerns, the likely trip generation from the development is considered to be relatively low. In addition concerns have been expressed about the range of facilities and Services in the Village. However there is a Church, Primary School, Pub, plans for the provisions of a village shop on both permanent and temporary basis, and public transport connections to higher order settlements. In summary it is considered that future occupiers will have access to reasonable range of facilities and it has been confirmed that there is capacity at the village Primary school to accommodate any pupil places arising from the development.

The site is contrary to policy being outside the settlement limit, although it is proposed for residential use within a draft allocation. On its own this draft allocation does not carry much planning weight, being still subject to examination. However given the current absence of 5 year land supply the policies in the adopted local plan in relation to controlling the supply of housing land are required to be set aside and the provisions of Paragraph 14 are triggered to complete the assessment process. Balancing the benefits of the application scheme against the impacts as summarised above, it is considered that the benefits of the scheme are considered to outweigh the impacts and therefore it is recommended that planning permission should be granted subject to conditions and the completion of a Section 106 agreement as outlined above.

CONDITIONS

1. Before any part of the development hereby permitted is begun, detailed drawings to an appropriate scale of the layout, scale and appearance of the building(s), and the landscaping of the site (hereinafter called the Reserved Matters) shall be submitted to and be approved in writing by the Local Planning Authority.
 2. Application(s) for approval for all the Reserved Matters shall be made to the Local Planning Authority before the expiration of 3 years from the date of this permission.
 3. The development hereby permitted shall be begun before the expiration of two years from the date of the approval of the last of the reserved matters, whichever is sooner.
 4. The details required to be submitted by condition 1 shall include the following additional information: boundary treatments, existing and proposed site levels, finished floor levels, and sections through the site indicating the relationship of the proposed development with existing adjoin properties on Barnshill Close, adjacent to the application site to the west
 5. No development shall begin until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority to include:
 - (a) the timetable of the works;
 - (b) daily hours of construction;
 - (c) any road closure;
 - (d) hours during which delivery and construction traffic arrive at and depart from the site;
 - (e) the compound/location where all building materials, finished or unfinished products, parts, crates, packing materials and waste will be stored during construction;
 - (f) areas on-site where delivery vehicles and construction traffic will load or unload building materials, finished or unfinished products, parts, crates, packing materials and waste
 - (g) details of wheel washing facilities and road sweeping obligations together with dust suppression proposals.
 - (h) hedgerow and tree protection measures: including an Arboricultural Method Statement and plans showing canopies and root protection areas for all trees on the site and on the site boundaries.
 - (i) Details of the amount and location of construction worker parking
- Works shall take place only in accordance with the approved Construction Management Plan
6. 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 submitted to and 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.
 7. No part of the development in relation to the construction of the dwellings hereby approved

shall be commenced until:

- a) The access roads into the site have 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 the approved details in the Construction Management Plan.
8. 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 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. 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.
 9. No part of the development hereby permitted shall be commenced until the detailed design of the proposed temporary (during construction) and permanent surface water drainage management systems have been submitted to, and approved in writing by, the Local Planning Authority. The design of this permanent surface water drainage management system will be in accordance with the principles of sustainable drainage systems, and those set out in the Surface Water Drainage Strategy (Report Ref. RMA-C1760, Rev.1, dated 25/09/17).
 10. No part of the development hereby permitted shall be commenced until the full details of the adoption and maintenance arrangements for the proposed temporary (during construction) and 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.
 11. No part of the development hereby permitted shall be commenced until details of the exceedance pathways and overland flow routes across the site in the event of rainfall in excess of the design standard of the proposed 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.
 12. The development shall take place only in accordance with the WYG report entitled: Reptile presence/ Likely Absence dated July 2016.

REASONS FOR CONDITIONS

1. The application was submitted as an outline application.
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, however the allowable timescale to comply with the terms of the condition have been shortened in order to

seek to accelerate the delivery of the development.

4. To enable the Local Planning Authority to consider whether adequate provision is being made for the matters referred to in the condition.
5. To ensure adequate facilities are available on site during the construction period in the interests of highway safety and to protect the amenities of existing residents, in accordance with Policy DM2 of the Mid Devon Local Plan Part 3 (Development Management Policies).
6. To ensure that adequate information is available for the proper consideration of the detailed proposals.
7. 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 in accordance with Policy DM2 of the Mid Devon Local Plan Part 3 (Development Management Policies).
8. To ensure that surface water from the development is discharged as high up the drainage hierarchy as is feasible in accordance with the principles of sustainable drainage systems in accordance with Policies COR11 of the Mid Devon Core Strategy (Local Plan Part 1) and DM2 of the Local Plan Part 3 (Development Management Policies).
9. To ensure that surface water runoff from the development is managed in accordance with the principles of sustainable drainage systems in accordance with Policies COR11 of the Mid Devon Core Strategy (Local Plan Part 1) and DM2 of the Local Plan Part 3 (Development Management Policies).
10. 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 and 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).
11. To ensure that the surface water runoff generated from rainfall events in excess of the design standard of the proposed surface water drainage management system is safely managed, and 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).
12. To ensure protected species are not harmed by the in accordance with Policies COR2 of the Mid Devon Core Strategy (Local Plan Part 1) and DM2 of the Mid Devon Local Plan Part 3 (Development Management Policies).

INFORMATIVES

1. The Devon & Cornwall Police Architectural Liaison Team have submitted comments to this application which should act as a useful checklist at the reserved matters stages.

REASON FOR/ APPROVAL OF PERMISSION/GRANT OF CONSENT

The principal of developing the site for a residential scheme, is considered to be in accordance with emerging policy CF1 (2013-2033) for the site and the general land-use principles promoted by policy COR1. Although the number of houses proposed exceeds the emerging policy target it remains at a density which is policy compliant and it has been demonstrated that 10 houses could be provided on the site with policy compliant car parking arrangements. Furthermore the means of access is

considered acceptable in terms of highway safety and local area capacity concerns. Matters relating to architecture and design of all buildings, height, scale and massing of all buildings and site layout issues, including the design of all, drainage infrastructure and parking provision are all reserved for future consideration. The applicant has agreed to enter into a section 106 agreement to cover matters relating to the level and nature of affordable housing to be provided on site, and contributions towards delivering education facilities and enhancement to existing recreational facilities in the Village. No issues are raised by statutory consultees in terms of drainage, flood risk and/or ground contamination, and it is considered that the impact on protected species/ecology that can be satisfactorily managed and mitigated against. On this basis the application scheme is considered to meet the requirements of Policies COR1, COR2, COR8, COR9 and COR11 of the Mid Devon Core Strategy (Local Plan Part 1), Policies AL/IN/3, AL/DE/3 and AL/IN/5 of the Mid Devon Allocations and Infrastructure Development Plan Document (Local Plan Part 2) and Policies DM1 and DM2 of the Mid Devon Local Plan Part 3 (Development Management Policies).

In summary the proposals respond positively to the emerging policy allocation for the site, and with policies COR17 and COR18 set aside given the position on 5 year land supply it is considered that the proposed community benefits, in particular in terms of securing on site affordable housing, positively outweigh the impacts of the development. On this basis the proposals are considered to be in accordance with the National Planning Policy Framework, both paragraph 14 and the guidance as taken as whole.

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

APPLICATION NO: 17/00652/MOUT

RECOMMENDATION

Grant permission subject to the prior signing of a Section 106 agreement to provide for:

21 dwellings x £5,218 = £109,578 air quality contributions.

5 dwellings x £1,205 = £6,025 open space contributions together with the provision of onsite LEAP and sports facilities to provide for refurbishment (of Chestnut Drive Play Area Willand).

£102,390 based on £13,652 per pupil for provision of primary infrastructure for primary facilities education.

The phasing of the works to provide for the commercial units prior to demolition of the existing prior to the occupation of the 5th Market dwelling and Conditions, grant Planning Permission.

PROPOSED DEVELOPMENT

The proposal is an outline application for the erection of 30 dwellings and commercial building 340sqm of use class A 1-5, access, public open space, landscaping, 35% affordable housing and associated works, on land to the south west of Willand village. The proposal includes amending the existing access to the site and includes a further access point via the existing field access. Only the principle of the erection of 30 dwellings and the commercial unit on the site along with the access are to be determined under this outline application. The final layout, scale and appearance of the dwellings and landscaping of the site are reserved for later consideration under a reserved matters application.

The site comprises approximately 2.37 hectares of commercial buildings and agricultural pasture land. The proposal is to demolish the commercial units which will create an area of brownfield land of approximately 0.6 hectares. On site is a petrol garage and forecourt, restaurant, car sales, hairdressers, motor vehicle workshop. To the north and east of the site are presently agricultural fields although a planning application number 16/01811/MOUT for the construction of 259 houses has been submitted and refused, with the resultant appeal determined and dismissed, details of which will be further considered in regard to this application along with the appeal in full at Appendix 1.

There are a couple of residential dwellings immediately to the south west of the site one of which is included as part of this site. To the south east of the main road a collection of detached dwellings are to be found. However the proposed site is located to the extremity of the settlement limits although within walking distance of the facilities within Willand with appropriate foot paths and bus route along the main road.

APPLICANT'S SUPPORTING INFORMATION

Plans
Application Form
Design & Access Statement

RELEVANT PLANNING HISTORY

82/01266/FULL - PERMIT date 29th September 1982

Alterations to living accommodation and public toilets

87/00441/FULL - PERMIT date 9th April 1987

Installations of windows

87/00442/ADVERT - PERMIT date 9th April 1987

Consent to display three illuminated fascia adverts and one illuminated identification free-standing advert

87/00558/FULL - PERMIT date 5th June 1987

Alterations and extension to provide bakery improved service facilities & larger cafe and change of use from cafe to shop; and change of use from office to cafe

93/01914/ADVERT - PERMIT date 10th March 1994

Adv.Con. for the retention & repositioning of internally illumin. (static lit) identification sign & box fascia & installation of internally illumin. (static lit) spreader box sign

94/00283/FULL - PERMIT date 29th March 1994

Erection of extension to canopy

98/01437/FULL - PERMIT date 26th October 1998

Installation of underground petrol storage tank

00/01001/FULL - REFUSE date 4th October 2000

Change of use of land and provision of hard surfacing to facilitate the relocation of car sales area and associated portable car sales building

01/00551/FULL - REFUSE date 26th July 2001

Change of use to form additional car park and picnic area

01/01061/FULL - PERMIT date 27th September 2001

Installation of automated teller machine

02/02480/FULL - PERMIT date 30th January 2003

Installation of an automated teller machine

06/00027/FULL - REFUSE date 27th April 2006

Construction of replacement service station, convert service station forecourt to car sales area and shop to offices

07/00811/FULL - REFUSE date 28th June 2007

Erection of replacement service station, conversion of service station forecourt to car sales area and shop to offices

15/01086/FULL - PERCON date 23rd October 2015

Erection of petrol filling station including sales (200sqm shop), dispensing forecourt and canopy, underground tanks and associated pipework, air/water machine, parking, floodlights, service yard area and new surface finished, removal of existing pumps and relocation of car sales

OTHER HISTORY

16/01976/PREAPP - CLO date 16th June 2017

PROTECT - Development of mixed use retail/housing

16/01976/PREAPP - CLO date 16th June 2017

PROTECT - Development of mixed use retail/housing

REASON FOR APPROVAL OF PERMISSION

Mid Devon has been found not to be able to demonstrate a 5 year housing land supply and Mid Devon's policies on housing supply should therefore not be considered up to date.

Paragraph 14 of the NPPF states that where development plan policies are considered to be out of date, planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the NPPF as a whole or specific policies in the NPPF indicate development should be restricted. The proposal would make a small contribution towards increasing housing supply in Mid Devon and weight must be given to this. In addition, the site is screened from the north and highway safety, flood risk, archaeology and drainage concerns can be addressed via conditions. This also weighs in favour of the approval of the application, as do the financial contributions towards education facilities and play area provision, as well as the provision of 9 affordable dwellings on site. The site is able to accommodate 30 dwellings with associated amenity space, vehicle parking, cycle parking and bin storage in a manner that would not significantly affect the living conditions of existing residents to an unacceptable degree.

However, the loss of commercial units and in particular the petrol filling station and car sales from the site are not particularly welcomed and would be preferable for their retention. These facilities are well used by the local populace and it is considered their loss would impact on the community. The loss of these Community facilities will potentially damage the settlement's ability to meet its day to day needs and reduce the available supply in the immediate area. However, there is proposed a retail/commercial unit to relocate some of the existing businesses, or provide for new businesses. To the north of Willand is an existing petrol filling station which provides an adequate provision and to the south a car sales unit which has been long established.

Although considered to be outside the settlement limits of the village the site is adjacent to a section of the settlement which is within that settlement boundary. Although considered to be remote from the main centre of the village the site is actually contiguous with the settlement boundary of Willand.

Willand is considered to be a sustainable settlement in that its overall day to day facilities make it suitable for restricted housing growth that the existing Development Plan and emerging Local Plan Review consider appropriate for a limited level of development. Whilst Willand does have an education facility, and a few shops and facilities associated with the Village. Accessibility to a wider range of services within Willand is generally poor and there would be a high dependency on the usage of the private car, or the regular bus services which are available. The proposal would amount to sustainable development and therefore does not conflict with the sustainability objectives of the NPPF.

The proposal is considered to be in accordance with policies: COR1, COR9, COR12 and COR18 of the Mid Devon Core Strategy (LP1) and Local Plan Part 3 policy DM25 and the sustainability objectives of the National Planning Policy Framework.

DEVELOPMENT PLAN POLICIES

Mid Devon Core Strategy (Local Plan 1)

COR1, Sustainable communities
COR2, Local Distinctiveness
COR3, Meeting Housing Needs
COR9, Access
COR11, Flooding
COR12, Development focus
COR17, Villages
COR18 Countryside

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

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

Mid Devon Local Plan Part 3 (Development Management Policies)

DM1, Presumption in favour of sustainable development
DM2, High quality design
DM8 Parking
DM21 Protection of employment land
DM25 Community facilities
National Planning Policy Guidance

SPD meeting housing needs
SPD open space
SPD parking provision
SPD refuse storage

CONSULTATIONS

WILLAND PARISH COUNCIL - 15th May 2017

The Parish Council discussed this application at the meeting on 11 May and has the following response.

This application requires the demolition of the existing, shop, filling station, restaurant, hairdressers, car repair workshops and residential accommodation. It will also require the removal of a car sales area and car parking. The restaurant and hairdressers are the only such businesses in the village.

This demolition will then create a modest area of 'brownfield' site. The larger area of the proposed site consists of open field agricultural land in open countryside. It is appreciated that this application is only for outline permission and access with all other matters reserved but the indicative plans and supporting information does attract comment.

It is considered that the proposed access is acceptable but strong representation is made for the speed limit on the section of the B3181 to be reduced from 40mph to 30mph as a precondition before and works commence. The submitted Transport Statement contains a number of inaccuracies

Paragraph 7 - Willand is a VILLAGE not a TOWN;

Paragraph 13 - Traffic on this stretch of road is heavy at times causing problems for vehicles, including busses, trying to emerge from Old Village at both ends of the stretch. This is likely to increase with developments in Cullompton and on the edge of Uffculme. The road is also the 'bypass' when the M5 is closed for any reason. Comment is made as to the few heavy goods vehicles whilst failing to recognise the weight restriction for the main road. The cumulative effect of these developments will only increase with time and put more pressure on Junction 28 at Cullompton and the roundabout at Waterloo Cross not forgetting the proposed development of land at Junction 27.

Paragraph 15 - There are not footways on both sides of the road as stated. As any children will be encouraged to walk to school along the main road serious consideration needs to be given to the widening of the footpath where there is no grass verge as the main road approaches the area near to the telephone box and bus stop in Silver Street.

Paragraph 16 - There are 3 bus services using this stretch of road or the nearby junction to Old Village.

Argument is made that the number of journeys made will be reduced if the businesses are removed but an alternative view is that this should only be given very limited weight as many of the recorded journeys are from vehicles calling in as they are passing going to or from destinations in the Cullompton direction. It could be argued that the loss of the business could result in more journeys into Cullompton as residents will have to go to Cullompton for services lost at the site.

The loss of the businesses will adversely affect the sustainability of the village community. The proposal to provide some commercial buildings may be considered as a potential site for a replacement hairdressers and restaurant but these will only be accessed through some housing and will be within the site and not visible from the road as the current businesses are. This may not make them a viable proposition. The proposal for B1 and B8 uses for these commercial units in such close proximity to residential housing is not considered acceptable. The proposed road widths on the estate

will be insufficient to cater for such traffic as generated by such businesses when residents or visitors may park on the road in front of houses.

A member of the public has advised that there is an historic well on the site which may be of interest to archaeologists or may have an effect on water courses if disturbed.

A number of COR policies appear to be relevant to this proposal and need to be considered as supporting a refusal to the application. Some of the issues are as follows: -

This will not enhance the self-sufficiency and vitality of the community. It will remove some facilities and add more people to be catered for in the church, preschool, primary school, village hall and youth club all of which are at capacity and not meeting the current need of the current community at times. There is already an identified shortage of public green open space and allotments. Regardless of public transport availability there will be more car journeys which have not been planned for.

It will have the potential to add to housing stock but the emerging local plan has already allocated 42 houses on a site outside of the settlement area of the village which is proportionately larger than the village share for housing across the District - Emerging Local Plan policy Wi1.

Willand is a village and development should be limited to minor proposals within defined settlement limits - COR17 under current plans and S13 under Emerging Local Plan. This area is outside of the settlement area.

This area is in open countryside, with the exception of the current garage, and development should be strictly controlled - COR18 under current plans and S14 under Emerging Local Plan. No case is made to go against this policy.

This application has created considerable interest and comment on social media within the area and at the time of writing only one person has indicated support.

This development would be mainly a block of housing isolated from the main part of the village and services and is not considered sustainable or appropriate.

Taking into account the information available, comments outlined above, together with current and emerging policies Willand Parish Council recommend refusal of this application. If approval is considered for recommendation by officers the Parish Council would wish to see the matter decided by Planning Committee.

HIGHWAY AUTHORITY - 11th May 2017

The site is located on the outskirts of Willand and is in part a substitution of existing uses and traffic generations. It is a matter for the Local Planning Authority to consider the sustainability merits of the site. It is intended to replace the traffic generated of the car sales and Petrol filling station (PFS) with the residential element of the development but retain on the site up to 342 square meters of commercial use, retaining the Cafe /Restaurant, shop, financial and professional services (currently there is a hair salon), office and storage and distribution. The applicant has submitted a transport statement, and has clarified to the Highway Authority distributions of the existing use of the PFS, shop, other uses and Car sales in the peak hour. The overall generations for the proposal have been shown to be a reduction in daily peak hour movements of 36 movements in the Am Peak and 34 movements in the PM peak. The Local Planning Authority will be aware of the Highway Authority concerns with regard to any additional traffic through the M5 junction 28 in the am peak and while there is an overall reduction, the Highway Authority needed to be satisfied that the movements in that direction are equivalent to or less than the existing generations. The distribution figures indicate that there are some 13 movements travelling to towards Cullompton from the existing uses in the am peak made up of the

PFS, Car Sales, shop, and 1 other. The Overall departures in the Am peak from the residential is 12 of which 50 % would be towards Cullompton as demonstrated by the recent planning application on the land adjacent therefore only 6 movements would be attributed to the residential development and 4 from the shop and other uses a total of 10 movements. These indicates a reduction to the existing movements and while the queue lengths at Junction 28 remain a concern and severe It would be unreasonable to recommend refusal of the application due to the reduction no matter how small that may be in material terms. The Highway Authority would seek a contribution to/or the relocation of the East bound bus stop to a location on Willand old village and the provision of a footway link to the west bound stop outside Digger land Therefore the Highway Authority would make no further observations and should consent be granted recommend various conditions which are set out below.

The Highways authority have been re-consulted on the need to reduce the speed limit at this site there comment is set out below;

The development would not receive a recommendation of refusal from the Highway Authority for a change in speed limit, there is ample visibility, and traffic generation is equivalent to existing use. The change in speed limits is not conditional and need to be undertaken through section 38. If it is considered appropriate and within policy this matter can be addressed through section 38 at a later date.

LEAD LOCAL FLOOD AUTHORITY - 17th May 2017

Recommendation:

Although we have no in-principle objection to the above planning application at this stage, the applicant must submit additional information, as outlined below, in order to demonstrate that all aspects of the proposed surface water drainage management system have been considered.

The applicant will also be required to submit Micro Drainage model outputs, or similar, in order to demonstrate that all components of the proposed outline surface water drainage system have been sized and designed to the 1 in 100 year (+40% allowance for climate change) rainfall event and that the proposed locations adequate space is allocated within the proposed development.

The proposed SuDS and the proposed attenuation strategy is assumed to meet the criteria for South West Water adoption.

It is proposed to discharge into a culvert which runs beneath the M5, Highways England should be consulted in order to clarify the proposed ditch and outfall into this asset is acceptable as the proposed outfall location is likely to be in land controlled by Highways England.

DEVON COUNTY EDUCATION - 11th May 2017

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

The proposed 30 family-type dwellings will generate an additional 7.5 primary pupils and 4.5 secondary pupils.

The local primary is forecast to be at capacity and therefore Devon County Council will seek a contribution towards the provision of primary infrastructure with regard to these proposed dwellings. Our Primary contribution request is £102,390 (based on the current DfE extension rate of £13,652 per pupil for Devon).

DEVON, CORNWALL & DORSET POLICE - 2nd May 2017

It is appreciated that this is at the outline stage; as such I am unable to comment in depth. However, having reviewed the available drawing which I accept may change, please note the following information, initial advice and recommendations from a designing out crime, fear of crime, antisocial behaviour (ASB) and conflict perspective:-

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.

There are negative aspects to this application, promoting the opportunity for community conflict and crime and disorder to occur.

Dwellings where defensible space is totally missing, and public open space adjoins actual dwellings. Excessive permeability encouraging casual intrusion that is not serving the development, footpaths to the side and rear of dwellings. Isolate parking spaces. Potential conflict between residents and users of proposed commercial units.

Together these form a strong recipe for community conflict, anti-social behaviour and crime that is easily rectified at the design stage.

FORWARD PLANNING - 16th May 2017

Proposal

Outline Application for a mixed development of 30 dwellings, commercial buildings, access, public open space, landscaping and associated works.

Policy Context

The Adopted Local Plan

The proposal is outside defined settlement limits of the adopted local plan and is therefore contrary to Policy COR17 and COR18 of the Core Strategy (adopted 2007).

Policy DM25 'Community Facilities' of the Local Plan Part 3: Development Management Policies applies, which states that proposals involving the loss of community facilities will not be permitted where this would damage the settlement's ability to meet its day to day needs or result in the total loss of such services to the community. Only in circumstances where the facility is proven to be no longer economically viable, including for alternative community use, will applications for alternative use be considered acceptable.

Local Plan Review

The Local Plan Review process is well advanced. A pre-submission draft plan was the subject of public consultation between February and April 2015. In response to these representations, and as a result of ongoing discussions with statutory consultees, the Local Plan Review Proposed Submission (incorporating proposed modifications) went out for consultation 3 January - 14 February 2017. The Local Plan Review was subsequently submitted to the Secretary of State on 31 March 2017 and is clearly gaining statutory weight as it advances through the process.

The Local Plan Review concentrates development primarily at the towns as stated in Policy S2. "Other settlements will have more limited development which meets local needs and promotes vibrant communities".

Policy S13 makes it clear that development will be limited to within defined settlement limits. Willand

does benefit from settlement limits however this outline proposal is outside of the area covered by these settlement limits.

Policy DM23 states that proposals involving the loss of community facilities will not be permitted where this would damage the settlement's ability to meet its day to day needs or result in the total loss of such services to the community. Only in circumstances where the facility is proven to be no longer economically viable, including for alternative community uses, will applications for alternative use be considered acceptable.

Conclusion

The proposal does not have current or emerging planning policy support given the site is outside of the defined settlement limits of current and emerging Local Plans.

Whilst the Local Planning Authority currently does not have a full five year housing land supply, it is considered that the scale of the development and the resulting imbalance in housing and local services would result in unsustainable development contrary to the National Planning Policy Framework.

The Council also has concerns over the net loss of local community/commercial facilities. Whilst it is acknowledged that 342 square metres of commercial development would be provided, the development would result in an overall net loss of 244 square metres. The applicant must provide justification for this loss to the satisfaction of Mid Devon District Council in accordance with policy DM25 of the Adopted Local Plan and DM23 of the emerging Local Plan Review.

Additional comments from planning policy following the receipt of the recent appeal adjacent to the site.

I have reviewed the Forward Planning advice previously provided to you in respect of the proposed development of 30 dwellings, commercial buildings, access, public open space,

Landscaping and associated works (application reference 17/00652/MOUT).

I concur with advice that has previously been provided at that time.

However, I am cognisant of the more recent appeal that was dismissed on 3rd November 2017 (application reference 16/01811/MOUT) in respect of the outline planning application for the development of up to 259 dwellings and the Inspector's reasons for this decision – notably the significant weight attached to the conflict with the development plan policies relevant to the scale and distribution of housing in Mid Devon.

I would suggest that there is now merit in weighing up the Forward Planning advice that has previously been provided to you, in light of this appeal decision, and the scale of the current planning proposal that is before you for determination.

NATURAL ENGLAND - 16th May 2017

The Wildlife and Countryside Act 1981 (as amended).

The Conservation of Habitats and Species Regulations 2010 (as amended)

Natural England's comments in relation to this application are provided in the following sections.

Statutory nature conservation sites - no objection

Contaminated Land - I acknowledge the detail in the planning statement and specific conditions should be included in any full application.

No objections to the rest

REPRESENTATIONS

There have been 72 comments received objecting to the proposal the following is a summary of those comments

1. Waste of green space
2. Petrol station and hairdressers are well used and a vital part of the village
3. Schools are at capacity
4. Parking and traffic in Willand is congested
5. Strain on local resources
6. Outside the settlement limits
7. Willand is a village not a town
8. The restaurant is well used and needs to stay

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The main issues in the determination of this application are:

1. Principle of development including 5 year housing land supply and sustainability
2. Recent Appeal Case
3. Highways and highway safety
4. Flood risk and drainage
5. Indicative layout, including parking and potential impacts
6. Landscape, visual amenity, ecology, archaeology
7. Section 106 including affordable housing, education and public open space and other financial considerations
8. Provision of commercial space
9. Planning balance

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

Policy COR1 of the Mid Devon Core Strategy (LP1) seeks sustainable growth which enhances the self-sufficiency of communities and provides access to education, jobs and sustainable transport. It seeks to provide accessible forms of development that reduce the need to travel by car and are integrated with public transport and other sustainable modes of travel and allow for ease of movement. Policy COR12 focuses development on the towns and states that other defined settlements should have only limited development to meet local needs and promote rural regeneration. Policy COR17 provides a definition of villages with defined settlement limits and sets out the type and scale of development that is acceptable within defined settlement limits and permitted on allocations outside settlement limits. These villages are characterised by having some local facilities and

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

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

However, Members will be aware that Mid Devon has been found not to be able to demonstrate a 5 year housing land supply. The NPPF advises that where a five year land supply of deliverable housing sites cannot be demonstrated, policies on housing supply should not be considered up to date. This includes settlement limits identifying areas which are open countryside and those which are within defined settlements.

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

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

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

The NPPF states that to achieve sustainable development, economic, social and environmental gains should be sought jointly and simultaneously through the planning system. The planning system should play an active role in guiding development to sustainable solutions. Planning should actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations that are or can be made sustainable.

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

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

The development is on part agricultural part commercial part brown field land and at present the entirety of the site lies outside the defined settlement limit for the village of Willand.

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

Part of the site (the agricultural land) was put forward in the Strategic Housing Land Availability Assessment (SHLAA) as site 5 land to rear of Willand service station. Stated within this assessment it considered the site to be in close proximity to the existing settlement, no European wildlife sites or designations, flood zone 1, although some priority woodland along the south western edge (M5). The only concerns raised were the potential noise impact on residential amenity.

2. Recent Appeal Case Land off Silver Street Willand

There is a very recent appeal decision which must be considered in assessing the appropriateness of this application.

The adjacent site was submitted for planning approval for 259 dwellings the application was refused on three reasons.

1. Additional vehicular movements and impact on capacity in the vicinity of Junction 28 of the M5 Motorway.
2. Large scale development, unplanned, and development of this scale is planned for Cullompton area.
3. The proposal would be out of scale with the size of the settlement of Willand and be unsustainable.

The inspector considered these reasons when assessing the appropriateness of the application. And assessed the proposal on two substantive grounds

- i) The development plan strategy for the location of housing, the framework and the scale of the development in relation to Willand, and
- ii) Its effect on the efficient operation of the highway network in the vicinity of junction 28 of the M5, including having regard to any proposed mitigation measures.

His conclusion was

- i) There is conflict with policies COR17 and COR18. Some harm to the landscape, but reasonably well screened, and change the character of the area which would only be minor. As part of the Local Plan review part of the site is allocated for housing thus indicating that to meet growth there is a requirement to look outside the confines of the settlement limit, although for the level of development to be adequately supported by infrastructure etc. There are basic and modest provisions of services presently for the village. The inspector considered the appeal associated with Uffculme (30 dwellings) and drew similarities with Uffculme in terms of shops and services but considered a growth of 20% to be un-acceptable and undermine social cohesion in the village. Therefore the scale of the development was in conflict with policies COR1 and COR12 and the overall size of the development was excessive for the village of Willand.
- ii) Highways England (HE) has no objection on impacts to M5, Devon County Council (DCC) has issues with capacity of the roads in and around Cullompton. It was stated that there would be an adverse effect on the flow of traffic along Station road, around junction 28 and along the High street at AM peak traffic times. Even taking into consideration the development within and around Cullompton and the numbers associated with the proposed application the 5% increase in numbers of vehicles would have a negligible effect on overall traffic volume and flow. There is a regular bus service between Willand and Exeter, and opportunities to access the railway station at Tiverton parkway via a cycle ride of 3.6km, along with an available car park at the station. The inspector concluded that the proposal would be compliant with policies COR1 and COR9.
- iii) With regard to the lack of 5 year land supply the proposed supply of the 259 dwellings to contribute to housing supply carries significant weight. However the emerging Local Plan review envisages 42 dwellings including 30% affordable, which is substantially below that proposed. The inspector judged that the proposed would not create a mixed and balanced community as promoted by the NPPF, with no provision of shops or

services and facilities for the village, and so would unbalance the settlement and undermine social cohesion.

The planning balance concluded that no harm to highway network, or countryside. There would be economic benefit and a substantial increase in the availability of housing in Mid Devon. However significant weight is placed on the conflict with policies and the scale of the scheme impacting on the sustainability of Willand as a Village. Therefore the appeal was dismissed.

When considering the proposed scheme for 30 dwellings at this site some of the same issues apply to this case. It is unlikely that there will be any adverse impact on highways and indeed DCC has confirmed they have no concerns. The reason for dismissal of the appeal is the number of houses and its scale which would be imposed on the village of Willand. This proposal is modest in size (30 dwellings) along with commercial space. The emerging plan considers 40 dwellings to be acceptable for Willand; the inspector indicates 3% increase is acceptable based on Uffculme (following the previous 60 houses approved at appeal earlier) which has a residential number of approximately 1000 units, a 3% increase in dwellings associated with Willand based on 1368 house units (approx. based on 2011 census.) equates to 41 houses.

Although following a recent analysis of Willand households to-date that figure has risen to 1419 house units a net increase since the census of 51 dwellings over the past 6 years or so. This additional proposal will potentially provide a further 30 dwellings a cumulative increase of potentially 81 households over this time period and beyond to when developed. This increase includes all windfall developments within the village settlement limits, both open market and affordable.

The present allocated plan for Willand includes 10 affordable units at AL/WI/1 (Willand Moor) and AL/WI/2 (West of B1381) 35 Affordable units, 28 (Silver Street 17/01179/MFUL) + 7 (13/00993/Full) of which have been provided or consented on this site. Therefore the proposal over the lifetime of the plan is 45 units with additional windfall sites.

The emerging Local Plan is considering 40 dwellings located at WI1 Meadow Park which includes part of the West of B3181 site which has already been consented and built out (7 units) remaining number being 33 units. Therefore there is a total increase over the life time of the two plans of 78 units within allocated sites not including any potential windfall sites.

The numbers proposed in this application maintain or closely relate to the expected increase over the lifetime of the two Local Plans

3. Highways and highway safety

Primary access to the site is proposed to be derived from an altered existing access onto the B3181 (Silver Street), with additional pedestrian accesses off Silver Street and a vehicular access point also being provided from Silver Street. The Highway Authority has indicated that it is satisfied with these arrangements and the layout of the new access onto the B3181. From a technical access perspective the access is acceptable. The Highway Authority has raised no concerns with regard to highway safety in the immediate vicinity of the application site and on this basis objections from members of the public in relation to such matters are not agreed with.

The application is supported by a transport statement which includes trip figures in relation to vehicle movements at two times of the day and that there will be an overall reduction in traffic generated from the site.

The figures are a snapshot in time and may not fully show the impacts of the proposed development on other parts of the highway network. J28 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 in respect of the County network and this will be further worsened by a major development for 266 dwellings currently under construction in Cullompton (known as Saxon Fields).

With these proposals and the information submitted the Authority still has major concerns with regard to the capacity of Junction 28 and the number of further dwellings on this site. The trip indicator does not take into consideration other development potential within the area.

However the recent appeal decision for the dismissal of the application for 259 dwellings on the adjacent site considered the impact the proposed would have on Junction 28, and concluded that there is a residual issue in this particular respect, and have a negligible effect on overall traffic volume and flows. It is therefore considered that this proposal for 30 dwellings and associated commercial space would receive a similar consideration if the proposal is considered for refusal on this aspect.

4. Flood risk and drainage

The site is in flood zone 1 and not liable to fluvial flooding. The LLFA have no in-principle objection to the proposed at this stage but would want to see further additional information to include Micro drainage model outputs, to ensure all drainage systems have been sized correctly. Also they require information regarding adoption and maintenance of the proposed surface water management system to ensure operation throughout its lifetime.

The proposed infiltration strategy proposes a number of SuDs sources control feature. However there is no proposed attenuation strategy and surface water should be managed at source. This detail could be supplied at reserved matter stage and considered then.

5. Indicative layout, including parking and potential impacts

2011 Census data for the Willand parish indicates a population of 3360 persons in 1368 households; since 2011 there has been minor new developments in the parish and so these figures are still fairly representative. However a recent interrogation of Willand mapping system shows there has been an increase in dwelling numbers since 2011 and the figure is now 1419 dwelling within the existing settlement limits of Willand. The potential addition of a further 30 new dwellings at this site would provide only a very small increase in the number of households in the parish. This would represent an acceptable increase in the size and scale of the village and also of the resident population, the proposal is considered to be minor development within the context of policy COR17.

Concerns have been expressed by the Parish Council and objectors with regard to the impact of development upon the infrastructure and facilities available in the village.

At present within the existing settlement limits the village is served by three shops (one of which contains a post office and one which is relatively small and associated with a petrol filling station), a public house, hot food takeaway, branch doctors surgery, village hall, youth club, tennis courts and playing fields, pre-school and primary school, football club and clubhouse (licensed and holds events). Outside the settlement limit within this application site is a petrol filling station with associated shop, restaurant, beauty salon, car repair garage and car sales. Planning permission exists on this site for a replacement garage and shop, to the north of Willand a food retail outlet of approximately 300 square metres on land at the Mid Devon Business Park but at the time of writing is unimplemented.

Nevertheless, these facilities are relatively dispersed throughout the village and for a settlement of this size it is unusual for there not to be a village core where the bulk of facilities are located and the overall number of shops and facilities could be considered as low. In comparison to, Bampton also (and proposed to be relabelled as a village in the emerging Local Plan) has a population (by Parish) approximately half that of Willand but has more shops, pubs and restaurants as well as a library, primary school, two public halls and recreational facilities.

In addition to the aforementioned facilities, there is a significant amount of employment floorspace in the village at South View Industrial Estate and the adjacent Mid Devon Business Park and slightly further afield at the 2Sisters site and Stan Robinson warehousing and logistics depot, both of which are located within a short walking distance of the village and accessible via the underpass below the

M5 by the junction of Gables Road.

The findings of the Inspector for an appeal for 60 dwellings adjacent to Uffculme in 2016 (known as Harvesters) are relevant in relation to the scale of development and considerations of sustainability. The Inspector found that it would be unrealistic to expect the village of Uffculme to achieve self-containment but nevertheless found that in a rural context, the village is a sustainable location for development. Public transport access is suitable for journeys to work and the mainline rail station is within cycling distance along a recognised cycle route. In respect of these points, Willand is in a very similar position as it is on the same bus routes as Uffculme and links to the mainline rail station via the national cycle network within a relatively short distance. The village is not served by a secondary school or library unlike Uffculme, however these are available within approximately 3 miles via public transport in either Uffculme or Cullompton and additionally there is a 4-weekly mobile library service to the village.

As part of the application, financial contributions have been requested by the County Council in respect of primary, education provision and legal costs. The applicant has agreed to contribute these requested financial sums.

In addition the application would deliver on-site public open space (POS) including a LEAP (locally equipped area of play) and a football pitch; the policy requirement is for an area of approximately 1,800sqm of POS and the currently submitted indicative layout and information states there is 0.54ha of Public Open Green Space (informal & Play) but this appears to include land required for the swale. However, it is accepted that the site is capable of accommodating the required amount of open space for the number of dwellings proposed. An off-site contribution by way of a financial contribution can be considered if insufficient space is to be provided.

Policy DM8 requires 1.7 parking spaces per dwelling to be provided on site and 4 cycle parking spaces per dwelling (3+ beds). The proposed parking layout indicates scattered parking around the site with no specific parking to any of the units. This is not an acceptable style of parking the Authority would be looking for and would want to see these spaces with each of the properties. There is no indication on the plans as to cycle spaces or refuse collection. It is expected that this will be considered at reserved matters stage.

Whilst the plan is indicative only, it demonstrates that 30 dwellings can be accommodated on the site without there being an unacceptable loss of privacy for amenity for neighbouring residents, subject to orientation and sufficient separation distances being provided between new and existing dwellings. The outlook from existing dwellings along the site boundary would change but this change in itself would not warrant refusal of the application. There is no requirement to preserve a private view in considering a planning application. Some of the amenity spaces of the proposed are small and confined which will need to be addressed at any possible reserved matters stage. In addition the houses onto the main highway turn their back on the road and are inward facing; this is not an acceptable design and creates a non-inclusive atmosphere to the proposed site.

Following further discussions with the applicant's agent it has been discussed to provide the commercial/retail space to the right of the access facing the highway with appropriate levels of parking to ensure there is no requirement to reverse out onto the main highway. It is also appropriate to ensure there is continuity between the existing commercial units which wish to remain and transfer to the new units. Therefore the section 106 agreement will provide for the construction and availability of the commercial units prior to the demolition of the existing. The Highways Authority has confirmed that at this stage there is no requirement to alter the speed limit outside the site. Although they will monitor the situation.

6. Landscape, visual amenity, ecology, archaeology

The Mid Devon Landscape Character Assessment identifies the site as being within the Lowland Plains character area, which is typified by a low lying flat landscape with gently rolling middle ground. In support of the application is a submitted Landscape and Visual Impact Assessment.

The level of harm arising as a result of this development is not significant when looking at the application as a whole and considering the substantial delivery of housing that would arise. Furthermore, the majority of trees and hedges on the site are proposed for retention and with additional landscaping this vegetation will result in middle to long distance views toward the site being largely unaltered and would help to soften the impact of a significant number of houses being constructed. Overall, the impact upon the quality of the landscape and the visual impact of the development is not significant and limited harm would arise, thereby meeting with the requirements of the development plan in this respect.

Landscaping is a reserved matter. The application does not specify any landscaping, the site is fairly well screened from the north but will require delicate screening and planting to the south and east. However landscaping will be addressed at the reserved matters stage, should the application be approved. The development is considered to be in accordance with policies COR2 of the Mid Devon Core Strategy (LP1) and DM2 in this respect.

It is considered that should permission be granted that a condition be imposed on any planning permission to ensure that archaeological investigation is carried out before the development is constructed, this is to ascertain the importance or not of the suggested well in the area. The development would be in accordance with policy DM27 of the LP3 DMP in this respect.

7. Provision of commercial space

The site consists of a number of commercial units within the site; it is proposed to replace some of the floor space associated with the site. Presently there is some 420sqm of commercial space split into differing uses, set within buildings which have established over a number of years. The proposal is to replace the existing with smaller space 340sqm yet more appropriate and versatile units. Although there will be a loss of space at the site and the garage will close along with the car sales, this is considered not to damage the settlements ability to meet its day to day needs or result in the total loss of such services to the community. There is a petrol station to the north and on the edge of Willand, further south an established car sales unit.

The other shops and facilities would be able to transfer into the proposed new units if they so wished, subject to agreement with the owner of the units.

Notwithstanding the indicative plans submitted it is considered and agreed with Willand Parish that the proposed units should be located to the front of the site, and that the units should be a mix of A1, A2, A3 and possibly A5, to provide for this part of Willand and the wider environs.

The proposal will ensure that the replacement commercial units are provided prior to demolition of the existing by way of a section 106 agreement, to ensure continuity of services at the site and for the village.

It is therefore considered that although there will be some loss of space on the whole the proposed is compliant with policy DM25 and DM21 of the Local Plan, in that there are adequate other facilities within and around Willand.

The emerging Local Plan defines Community facilities which provide for the wellbeing, social, educational, spiritual, recreational, leisure and cultural needs of the community. It is therefore considered that the loss of the petrol station and the car sales does not necessarily fall into the parameters of community facilities.

8. Section 106 including affordable housing, education and public open space air quality and other financial considerations

Policy AL/DE/3 of the AIDPD which requires open market housing sites in rural areas of more than 2 dwellings to provide affordable housing at 35% of the number of dwellings by which the site exceeds the 2 dwelling threshold ($11 - 2 \times 35\%$), rounded down to the nearest whole. For this application, there would be a need to provide 9 affordable dwellings on the site.

Public open space is intended to be provided on site. However if sufficient appropriate space is not to be included then Policy AL/IN/3 of the AIDPD and Mid Devon's SPD on open space seeks financial contributions towards play areas and open space facilities where no on site provision is made. Accordingly, the applicant has agreed to enter into a Section 106 Agreement to secure any additional financial contribution towards Refurbishment of Chestnut Drive Play Area, Willand'.

Policy AL/IN/5 of the AIDPD provides that where new housing development will lead to education facilities being over-subscribed, the development will cover the cost of the additional facilities necessary. Devon County Council has requested an education contribution towards additional education infrastructure for the Primary contribution the request is £102,390 (based on the current DfE extension rate of £13,652 per pupil for Devon). This contribution will be used to increase the primary education facilities within the area of the development. There is currently capacity at the local secondary school; therefore a secondary contribution will not be required.

Policy AL/CU/15 Cullompton Air Quality Development in or adjoining Cullompton will be required to mitigate its likely impact on air quality in the Cullompton Air Quality management Area by contributing towards the cost of implementing the action plan. The proposed sum is 21 dwellings x £5218 = £109,578, to be allocated to a project associated with improvements to J28

9. Planning balance/Summary

Mid Devon has been found not to be able to demonstrate a 5 year housing land supply and Mid Devon's policies on housing supply should therefore not be considered up to date. Paragraph 14 of the NPPF states that where development plan policies are considered to be out of date, planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the NPPF as a whole or specific policies in the NPPF indicate development should be restricted.

The proposal would make a small contribution towards increasing housing supply in Mid Devon in addition, the site is screened from the north and highway safety, flood risk, archaeology and drainage concerns can be addressed via conditions, there will also be financial contributions towards education facilities and play area provision, as well as the provision of 9 affordable dwellings on site.

The site is also able to accommodate 30 dwellings with associated amenity space, vehicle parking, cycle parking and bin storage in a manner that would not significantly affect the living conditions of existing residents to an unacceptable degree. These are the benefits of the scheme to which weight can be given.

In terms of the adverse impacts of the proposal it is important to consider the loss of commercial units and in particular the petrol filling station and car sales from the site are not particularly welcomed and it would be preferable if they were retained. These facilities are used by the locals and it is considered their loss may have a short term impact on the community. In assessing this issue it is important to consider that the loss of these Community facilities may not damage the settlements ability to meet its day to day needs and reduce the available supply in the immediate area as there is a replacement retail/commercial unit proposed to relocate some of the existing businesses, or provide for new businesses. The approximate area loss is associated with the petrol station and car sales in the region of 80-100sqm. It should also be noted that to the north of Willand adjacent to Mid Devon Business Park is an existing petrol filling station which provides an adequate provision and to the south at Five bridges a car sales unit (Culm Valley Car Sales).

The site could also be considered to be outside the settlement limits and in a relatively isolated position away from the built form of the village on the north western flank of the B3181 (Silver Street), but it must be noted that the site is adjacent to a section of the settlement on the south eastern flank of the road which is within that settlement boundary. Whilst the site is located a distance away from the boundary of the settlement limits on the North eastern flank of the B3181 it is none the less within walking distance of the facilities within Willand with appropriate foot paths and a bus route along the main road.

Willand is considered to be a sustainable settlement in that its overall day to day facilities make it suitable for restricted housing growth that the existing Development Plan and emerging Local Plan Review consider appropriate for a limited level of development. Whilst Willand does have an education facility, and a few shops and facilities associated with the Village. Accessibility to a wider range of services within Willand is generally poor and there would be a high dependency on the usage of the private car, or the regular bus services which are available.

On balancing all these issues it is considered that the proposal would amount to sustainable development and therefore does not conflict with the sustainability objectives of the NPPF. This is a finely balanced judgement which has been reached on the basis that planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits. On this basis the proposal is considered to be in accordance with policies: COR1, COR9, COR12 and COR18 of the Mid Devon Core Strategy (LP1) and Local Plan Part 3 policy DM21 and DM25 and the sustainability objectives of the National Planning Policy Framework.

CONDITIONS

1. No development shall begin until 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) 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 1 shall include the following additional information: boundary treatments, existing and proposed site levels, finished floor levels and materials, external lighting, retaining walls, drainage and 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, materials,
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. An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent

of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

- (i) a survey of the extent, scale and nature of contamination;
- (ii) an assessment of the potential risks to:
 - a) human health,
 - b) property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
 - c) adjoining land,
 - d) groundwater and surface waters,
 - e) ecological systems,
 - f) archaeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and proposal of the preferred option(s).

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

- 9. Prior to any development a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.
- 10. The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority.

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

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

- 11. **Reporting of Unexpected Contamination**
In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 1, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 2, which is subject to the approval in writing of the Local Planning Authority.
- 12. No development shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Planning Authority.' The development shall be carried out at all times in strict accordance with the approved scheme.
- 13. No occupation of the development shall take place on site until the off-site highway works for the relocation of the eastbound bus stop into Willand Old Village, and provision of footway from

the existing pedestrian crossing to the Westbound stop outside Digger Land have been designed, approved in writing and have been constructed and made available for use.

14. 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.
15. 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.
16. 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.
17. The occupation of any dwelling in an agreed phase of the development shall not take place until the following works have been carried out to the written satisfaction of the Local Planning Authority:
 - a) The 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.
18. The proposed replacement commercial units within the application site including any building(s) thereon shall be used for A1, A2, A3 A4 and A5 and for no other purpose (including any purpose in Class C3 or B1 of the Schedule to The Town and Country Planning (Use Classes) Order 1987 (as amended)), or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification.
19. No development shall begin until there has been submitted to, and approved in writing by the Local Planning Authority, a landscaping scheme, including details of any changes proposed in existing ground levels. All planting, seeding, turfing or earth reprofiling comprised in the approved details of landscaping shall be carried out within 9 months of the substantial completion of the development, (or phase thereof), and any trees or plants which, within a period of five years from the completion of the development die, are removed or become

seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species.

20. 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.

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 Local Planning Authority to consider [adapt to be specific to the application], in accordance with policies DM2, DM14 of Local Plan Part 3
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 the work force and subsequent occupants of the site.
9. To ensure the development is carried out without detriment to the health and amenity of the work force and subsequent occupants of the site.
10. To ensure the development is carried out without detriment to the health and amenity of the work force and subsequent occupants of the site.
11. To ensure the development is carried out without detriment to the health and amenity of the work force and subsequent occupants of the site.
12. To ensure, in accordance with paragraph 141 of the National Planning Policy Framework (2012) and the supporting text in paragraph 5.3 of the Mid Devon Local Plan Part 3: Development Management Policy DM27 (2013) that an appropriate record is made of archaeological evidence that may be affected by the development.
13. To ensure that adequate information is available for the proper consideration of the detailed proposals.
14. To ensure the proper development of the site.
15. 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.

16. To ensure that adequate access and associated facilities are available for the traffic attracted to the site.
17. To ensure that adequate access and associated facilities are available for the traffic attracted to the site.
18. To ensure appropriate uses remain at the site to provide for the needs of Willand.
19. To ensure that the development makes a positive contribution to the character and amenity of the area in accordance with policy DM2.
20. In the interest of the visual amenity of the area in accordance with policy DM2.

REASON FOR/ APPROVAL OF PERMISSION/GRANT OF CONSENT

Mid Devon has been found not to be able to demonstrate a 5 year housing land supply and Mid Devon's policies on housing supply should therefore not be considered up to date. Paragraph 14 of the NPPF states that where development plan policies are considered to be out of date, planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the NPPF as a whole or specific policies in the NPPF indicate development should be restricted.

The proposal would make a small contribution towards increasing housing supply in Mid Devon and weight must be given to this. In addition, the site is screened from the north and highway safety, flood risk, archaeology and drainage concerns can be addressed via conditions. This also weighs in favour of the approval of the application, as do the financial contributions towards education facilities and play area provision, as well as the provision of 9 affordable dwellings on site (> 1,000 square metre floorspace) or a financial contribution towards off-site affordable housing (<1,000 square metres floorspace). The site is able to accommodate 30 dwellings with associated amenity space, vehicle parking, cycle parking and bin storage in a manner that would not significantly affect the living conditions of existing residents to an unacceptable degree.

However, the loss of commercial units and in particular the petrol filling station and car sales from the site are not particularly welcomed and would be preferable for their retention. These facilities are well used by the local populace and it is considered their loss would impact on the community. The loss of these Community facilities will potentially damage the settlement's ability to meet its day to day needs and reduce the available supply in the immediate area. However there is proposed a retail/commercial unit to relocate some of the existing businesses, or provide for new businesses. To the north of Willand is an existing petrol filling station which provides an adequate provision and to the south a car sales unit which has been long established.

Although considered to be outside the settlement limits of the village the site is adjacent to a section of the settlement which is within that settlement boundary. Although considered to be remote from the main centre of the village the site is actually contiguous with the settlement boundary of Willand. Willand is considered to be a sustainable settlement in that its overall day to day facilities make it suitable for restricted housing growth that the existing Development Plan and emerging Local Plan Review consider appropriate for a limited level of development. Whilst Willand does have an education facility, and a few shops and facilities associated with the Village. Accessibility to a wider range of services within Willand is generally poor and there would be a high dependency on the usage of the private car, or the regular bus services which are available. The proposal would amount to sustainable development and therefore does not conflict with the sustainability objectives of the NPPF. The proposal is considered to be in accordance with policies: COR1, COR9, COR12 and COR18 of the Mid Devon Core Strategy (LP1) and Local Plan Part 3 policy DM25 and the sustainability objectives of the National Planning Policy Framework.

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

Appeal Decision

Hearing held on 3 - 4 October 2017

Site visit made on 4 October 2017

by H Baugh-Jones BA(Hons) DipLA MA CMLI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 03 November 2017

Appeal Ref: APP/Y1138/W/17/3172380

Land off Silver Street, Willand, Devon

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Gallagher Estates against the decision of Mid Devon District Council.
 - The application Ref 16/01811/MOUT, dated 18 November 2016, was refused by notice dated 17 March 2017.
 - The development proposed is outline planning application for residential development of up to 259 dwellings, with public open space, landscaping and associated infrastructure with all matters reserved except the vehicular access from Silver Street.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The application is in outline with only access to be considered at this stage. However, the application documents include a Concept Masterplan that identifies how the development might be laid out. It was agreed by the parties at the Hearing that this provides illustrative material only and I have treated it as such in my determination of the appeal.
3. A suite of planning obligations by way of Unilateral Undertakings (UUs) was submitted prior to the Hearing. However, also at the Hearing, the need for minor amendments was brought to my attention in respect of the proposed village entry signage. Following a round-table discussion, it was concluded by the parties and with which I am satisfied, that no such amendments in relation to this matter are necessary. However, amendments remained to be made to one of the UUs and I agreed with the parties a defined period of time after the close of the Hearing within which they were to address this matter and provide a final signed version of the relevant UU. I now have an executed set of planning obligations before me. Together, they make provision for affordable housing, on-site public open space, sustainable travel, education, healthcare, transport and highways.
4. It is common ground between the parties that the Council cannot currently demonstrate a 5 year supply of deliverable housing sites (the five-year housing

land supply (HLS)) and that having regard to paragraph 49 of the National Planning Policy Framework (the Framework), the tilted balance contained within Framework Paragraph 14 therefore applies.

Background and Main Issues

5. The Council refused the application on two substantive grounds, which having regard to the Council's HLS, I consider give rise to the following main issues:

Whether any harm arising from the proposal would significantly and demonstrably outweigh its benefits having regard to:

(i) the development plan strategy for the location of housing, the Framework and the scale of the development in relation to Willand; and

(ii) its effect on the efficient operation of the highway network in the vicinity of junction 28 of the M5, including having regard to any proposed mitigation measures.

Reasons

Planning policy

6. The development plan for the District comprises the Mid Devon Core Strategy (2007) (CS), the Allocations and Infrastructure Development Plan Document (2011) (AIP) and the Local Plan Part 3 Development Management Policies (2013) (DMP).
7. The policies that feature in the Council's reasons for refusal of the application and which are therefore relevant to the determination of this appeal are: CS COR 1 (sustainable communities); COR 9 (access); COR 12 (development focus) and DMP policy DM1 (sustainable development).
8. Policy COR 1 sets out a series of policy measures which aim to manage growth so that it meets sustainability objectives, brings positive benefits, supports diverse community needs and provides vibrant, healthy and inclusive places for people. It includes a requirement for accessible forms of development that reduce the need to travel by car and are integrated with public transport and other sustainable modes of travel, allow for ease of movement and provide safe environments. Policy COR 9 supports the broad objectives of policy COR 1 by seeking to co-ordinate development and transport planning to improve accessibility for the whole community, reduce car travel, encourage public transport use, cycling and walking.
9. CS policy COR 12 states that development will be concentrated at Tiverton, Cullompton and Crediton, with a limited role for Bampton. The policy goes on to say that other settlements will have only very limited development required to meet local needs and rural regeneration. It sets out development rates for these respective places. DMP policy DM1 reflects the presumption in favour of sustainable development set out in the Framework.
10. Although not included in the putative reasons for refusal, CS policies COR 17 and COR 18 are relevant and have been referred to by both parties. COR 17 designates a number of rural settlements as 'Villages' wherein development will be limited to minor proposals within their defined settlement limits and to allocations for: affordable housing meeting a local need; small scale employment and tourism; services and facilities serving the locality; and other very limited development which enhances community vitality or meets a local

social or economic need. Policy COR 18 seeks to strictly control development in the countryside and sets out a number of criteria against which development will be permitted in these areas. The broad objective of the policy is to enhance the character, appearance and biodiversity of the countryside by focussing growth in the market towns to reinforce their social and economic role and enhance self-sufficiency. Based on all that has been put to me, I am satisfied that these two policies are relevant to my considerations in this appeal and I have therefore taken them into account in reaching my decision.

11. The Council is in the process of preparing a Local Plan Review. The plan has been submitted to the Secretary of State and initial hearing sessions have been held on a limited range of policies. However, further hearing sessions have been adjourned pending the commissioning by the Council of an independent report to review the major modifications stage of the Sustainability Appraisal. Dates are yet to be published for the re-arranged Hearings as part of the Local Plan Examination process. The available evidence does not include any policies from the Local Plan Review although references were made to the housing allocation for Willand within it at the Hearing.

Location of housing and scale of development

12. The site comprises agricultural land located immediately to the south west of the built up area of Willand, which is recognised as a 'Village' in CS policy COR 17.
13. In my view, it is reasonable to conclude that there is a vast gulf between the scale of development proposed and what the development plan envisages for villages such as Willand as expressed in CS policy COR 17. I therefore consider the proposal to be in conflict with this policy.
14. The proposal would provide a substantial development of market housing and although there would also be an affordable housing element, this would be as a percentage of the total number of dwellings and there is no evidence before me that it would relate to an identified local need. Accordingly, the appeal scheme would not meet any of the criteria set out in policy COR 18 and therefore conflicts with it.
15. It is common ground between the parties that there would be some albeit minor harm to the local landscape¹. The site would sit between the M5 and Silver Street and it is reasonably well-screened in most of the available views although there are areas along Silver Street and Meadow Park, where there are more open views. The proposed development would clearly change the character of this part of the countryside and the dwellings would have some presence in the available views although this could be mitigated by the use of planning condition. Overall, I agree with the parties that there would be only minor harm to the character and appearance of the countryside.
16. As part of its Local Plan review, the Council has allocated land for development on part of the appeal site, which demonstrates a clear recognition that in order to meet its aspirations for housing growth, not all development can take place within the existing built confines of settlements. Given the current stage of the Plan's preparation I do not consider that its policies can be given any more than limited weight in this appeal. However, the general approach of allocating a site to accommodate a modest number of dwellings in Willand accords with the broad principles of the CS and the Framework in seeking to ensure the

¹ Statement of Common Ground paragraph 7.13

level of development is adequately supported by infrastructure and to support its health, social and cultural well-being.

17. The proposal would very substantially increase the size of Willand. Within the village, there are a number of dispersed services and facilities. However, taking into account the existing size of the settlement, they represent a somewhat basic and modest level of provision.
18. I have had regard to the findings of the Inspector in his decision² (HD3) relating to a scheme for 30 dwellings in Uffculme. The Inspector refers to the number of shops and services within that settlement and it seems clear to me that there are about the same number as in Willand. The Inspector considered the proposed 3% growth in Uffculme would be unlikely to undermine social cohesion in the village. However, the scale of development proposed in this appeal would represent a very significantly greater level of growth relating to a settlement with no greater level of services and facilities.
19. Although the appeal scheme proposes to contribute financially towards education and healthcare facilities in Willand, there would be no corresponding increase in the number of other services and facilities. I recognise that the existing businesses would not necessarily be harmed economically but the scale of the development would be at odds with the Council's strategy for locating the majority of new housing in and around the larger settlements in Mid Devon. For these reasons, the proposal conflicts with CS policies COR 1 and COR 12.

Highway network

20. Highways England (HE) does not object to the proposed development on transport grounds in relation to traffic impacts on the M5. However, Devon County Council (DCC) is responsible for the roads leading to M5 junction 28 and the Council's highway concerns relate to the capacity of the roads within and around Cullompton to accept the additional vehicular traffic it envisages will arise from the development.
21. It was put to me that the additional traffic generated would result in vehicles backing up along Millennium Way, which leads from the B3181 where it joins Station Road at a roundabout junction. The Council argues that this would have an adverse effect on the flow of traffic along Station Road, around junction 28 of the M5 and along High Street. At the Hearing, it was agreed by the main parties that the Council's concerns relate only to the AM peak traffic period and the eastbound flow of traffic towards junction 28.
22. The traffic modelling produced by DCC indicates that junction 28 is close to capacity when the traffic volumes predicted to arise from a number of allocated residential and commercial sites are included.
23. However, initially, an allocation at North West Cullompton envisaged 1100 dwellings and 40,000 sqm of commercial land but this latter element was reduced to 10,000 sqm before being increased again to 19,000 sqm although there remains some doubt over whether this will be fully achieved. In addition, allocations at Court Farm, Padbrook Park, Knowle Lane and Exeter Road amount to a total of about 565 dwellings. The modelling did not include the

² APP/Y1138/W/17/3178479

12,000 sqm commercial allocation at Venn Farm set out in the emerging Local Plan (eLP).

24. Improvements to junction 28 are proposed as part of the emerging East of Cullompton allocation. The Council argues that until these improvements have been implemented, there is insufficient capacity at the junction to cope with the additional traffic that it considers the appeal scheme would generate. However, even when taking account of all the above commercial allocations, their combined area still falls well below the initial modelled effects based on 40,000 sqm. The Council has allocated part of the appeal site for 42 dwellings. Taking this from the proposed number of 259 dwellings, it gives a residual increase of 217 dwellings over and above that allocation.
25. The survey work³ carried out by DCC revealed a significant queuing delay along Station Road with traffic queuing back from junction 28 to the High Street/Station Road junction. At the Hearing the Council accepted that the number of vehicles associated with committed development would be in the region of 48 per hour representing about a 5% increase. The proposed development is predicted to add a further 32 vehicles per hour.
26. It is clear from the connections between the roads that lead from the appeal site into Cullompton that the obvious and logical route for drivers would be initially to head south along Silver Street/B3181 before turning left into Millennium Way. The available evidence indicates that based on the number of vehicles generated, there would be about 1 additional vehicle adding to the back of any queue along Millennium Way every two minutes.
27. Accordingly, in order for any delays in journey times not to worsen, there would need to be a corresponding movement of vehicles from Millennium Way onto Station Road. This would rely upon two main factors in my view. Firstly, there would need to be sufficient opportunity for vehicles to turn left from Millennium Way into Station Road at its roundabout junction and secondly, the cycle time of the signalised junction at the southbound on and off-slip roads of junction 28 would need to be adequate to ensure traffic flowed without backing up.
28. I was able to make my site visit early in the morning and took the opportunity to travel to Cullompton to assess the volume and flow of traffic during the AM peak travel period. I observed that although traffic was queuing for much of the way along Station Road from the roundabout at the top of the northbound on and off-slip roads at junction 28, it was not backed up all the way to the junction with High Street and was moving steadily. There was also a steady flow of traffic between the roundabout and traffic light controlled junctions at the junction 28 slip roads and no clear signs of unacceptable delay.
29. This corroborates the evidence⁴ of DCC's highways officer that because the traffic light junction operates under the MOVA system, the queue of traffic only extends as far back as the nearby roundabout once every ten cycles. At my site visit, this seemed to me to be adequate in ensuring a modestly paced but nonetheless steady flow of traffic along Station Road and Millennium Way towards junction 28.

³ Cullompton Queue Length Monitoring June 2016 (included as Appendix K of the appellant's Transport Statement of Case ref W15243_Ap_01_C, which in turn forms Appendix 1 to the appellants main Statement of Case).

⁴ Appendix 3 of DCC's Statement of Case (actually titled 'Proof of Evidence')

30. Moreover whilst there was a queue along a short section of Millennium Way, I observed vehicles merging steadily onto Station Road. I am not therefore convinced by the Council's arguments or those of interested parties that there is a residual issue in this particular respect. Given the modest number of vehicles associated with the proposed development that would join the back of any queue, I am not persuaded that there would be any material effect on the volume or flow of traffic approaching Station Road from Millennium Way or by extension, that there would be any knock-on effects elsewhere on the local highway network. Furthermore, I have nothing of substance before me to counter the appellant's evidence that vehicle delay times because of queuing are in the region of only 93 seconds. In my view, this is not a significant delay.
31. Notwithstanding all of this, because of the various locations of committed developments around Cullompton, the traffic associated with them would be unlikely to travel along Millennium Way. Having said that, it could add to the general volume of traffic along Station Road during peak travel periods. Nevertheless, the increase in the number of vehicles is predicted to be low at 5% and I am satisfied that this will have a negligible effect on overall traffic volume and flows.
32. Interested parties also raised the issue of traffic associated with the two local quarries and a landfill site. However, no information was submitted to show where these are and how they would impact upon traffic through Cullompton towards M5 junction 28 during the AM peak travel period. Furthermore, although the figure of 487 daily vehicle trips was suggested in relation to these sites, there is no empirical evidence as to how they affect the AM peak period. I accept that the PM peak period may also be affected but I have no compelling reason to step away from the Council's contention that the predicted effects of the proposed development would be during the morning. Neither do I have any substantive evidence to suggest a growing adverse cumulative traffic effect in Cullompton. Indeed, the evidence actually indicates a reduction in traffic in this area between 2012 and 2017 even though there has been some growth in development.
33. It was also put to me that there would be an unacceptable effect on the area around Waterloo Cross, which is located to the north of Willand and where there are distributor routes to M5 junction 27. However, there is no clear evidence before me that the proposed development would result in traffic issues in this area, particularly given the modest number of predicted vehicle trips. I therefore give this argument little weight.
34. However, and notwithstanding the appellant's stance in relation to the residual and cumulative impacts of the proposal, a suite of sustainable transport measures have been put forward in order to encourage a modal shift to sustainable forms of travel. These include financial contributions towards: advertising and publicity of the Carshare Devon Scheme within Willand; the improvement of bus services between Exeter and Willand; the promotion of rail usage through marketing events; and undertaking Personal Travel Planning for all dwellings within the proposed development and an additional 400 dwellings in Willand.
35. The parties agree that the proposed package of measures would deliver a modal shift but disagreement remains over the level of such a shift and

whether it would be successful in achieving its objectives of reducing car journeys.

36. It is clearly impossible to accurately predict what the take up of such measures would be; particularly car sharing and bus travel. Nevertheless, in terms of car sharing, given that it was put to me that there is existing informal car sharing taking place in Willand, the further promotion of this travel option would appear to offer greater potential for car sharing through a formalised scheme. The appellant's evidence clearly sets out that the Devon Car Share Scheme is a successful one and I have no reason to doubt that this could not apply to Willand.
37. There is a regular bus service between Willand and Exeter with stops very close to the appeal site. The Council's evidence suggests a high take up of this form of transport which to me indicates its popularity. It was put to me that the bus times do not tie in well with journey to work times. However, the bus operator proposes to increase frequency such that buses would arrive in Exeter between 0830 and 0930, which would be within a suitable time period for getting to work. This would initially be funded by the appellant. In my view, the bus operator's proposition that the service would be self-financing after the scheme period would be likely to prevent the previous situation where the service was reduced following the expiration of funding, particularly when taking account of the high level of current bus use.
38. There are also opportunities to access the railway station at Tiverton Parkway via a cycle ride of about 3.6km, much of which is along a formalised cycle route. There is then a half-hourly train service to Exeter St Davids with onward rail travel into the city centre. There is also a car park at the station that would allow for short car journeys from the proposed development.
39. In addition to the above measures, the appellant proposes to provide Personal Travel Planning. This has been shown to be successful in other areas, resulting in a 19% modal shift from single occupancy car travel to sustainable forms of transport. I have no substantive contrary evidence to indicate that this could not also be achieved in Willand, both for the proposed development's occupiers and within the settlement more widely.
40. None of this means that a significant number of households would not still be likely to rely on the car for day-to-day shopping trips and to access other services and facilities in Cullompton. This is mainly because of the convenient and attractive option of it being only about a 10 minute car journey away. Having said that, there is no requirement in the development plan for car travel to be eliminated altogether.
41. On the balance of probabilities, I consider that the package of sustainable transport measures put forward would achieve an acceptable modal shift in the travel patterns of those occupying the proposed development and elsewhere in Willand.
42. The Council asserts that to allow the proposed development to go ahead would frustrate the delivery of other developments. At the Hearing, it was clarified that this would only be in relation to highway effects. However, for the reasons I have already set out, I am satisfied that there would be no severe residual and cumulative highway impacts resulting from the proposed development.

43. For the above reasons, I am satisfied that the proposal would not result in a material adverse effect on the volume and flow of traffic during the AM peak travel period within Cullompton or elsewhere on the local and strategic highway network. I am also persuaded that the measures put forward for encouraging the use of sustainable transport modes would be sufficiently effective in reducing car use. As such, the residual and cumulative impacts of the proposed development would not be severe. Thus the proposal would accord with the travel-related objectives of CS policies COR 1 and COR 9.

Planning obligations

44. The proposal makes provision for 35% affordable housing on the appeal site which would accord with the provisions of AIP policy AL/DE/3. I am satisfied that there is sufficient development plan policy justification for the obligation on affordable housing and that it would comply with paragraph 204 of the Framework and Regulation 122 of the Community Infrastructure Levy Regulations 2010 (CIL).
45. The obligations also provide for a Travel Information Pack that would be provided to all residents in Willand promoting Car Share Devon and Tiverton Parkway station. A Travel Plan would also be agreed which would provide personal travel planning for up to 400 residents in addition to those occupying the proposed development. However, given that this would range more widely than the development itself, I do not consider that these aspects of the obligations are necessary to make the development acceptable in planning terms. Thus, they would not accord with the Framework tests or the CIL Regulations.
46. Insofar that the provisions in the UUs relating specifically to mitigating the effects of the proposed development on transport and highways, they are neutral factors that could not be weighed in favour of the development in the planning balance. As I am dismissing the appeal for other substantive reasons, with the exception of affordable housing, I do not consider these obligations further.

Other Matter

47. On the other side of Silver Street, the built form of the settlement extends considerably further south and in part comprises Willand Old Village. A substantial proportion of this part of Willand is designated as a Conservation Area (CA).
48. Most of the CA is concentrated away from the appeal site and there is a substantial area of other residential development in between as well as Silver Street itself. I am therefore satisfied that the proposal would not result in harm to the setting of the CA.

Planning Balance

49. The level of the Council's HLS shortfall was considered by the Inspector in the Uffculme appeal to be between 4 and 4.5 years based on the conclusions of previous Inspectors in appeals on other sites in the District. There is no evidence in this current appeal that there has been any material change in the Council's HLS position since then. It was agreed by the parties at the hearing that the HLS is in the region of 4 to 4.5 years and I have no reason to take a different view.

50. The Framework states that where the development plan is absent, silent or relevant policies are out-of-date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole; or specific policies in the Framework indicate development should be restricted. There are no restrictive policies in the Framework that indicate development should be restricted in this instance. At the heart of the Framework is the presumption in favour of sustainable development, which has three mutually dependent dimensions - economic, environmental and social.
51. CS policies COR 17 and COR 18 are contributing to a restriction on bringing forward development in the District in line with the Framework requirement to boost significantly the supply of housing. Accordingly, the appeal scheme's conflict with these policies is limited.
52. The Framework seeks to boost significantly the supply of housing. In this respect the contribution of 259 dwellings to housing supply in a District where there is currently a shortfall carries significant weight. The Framework also says that local planning authorities should consider whether allowing some market housing would facilitate the provision of significant additional affordable housing to meet local needs. The appeal scheme would result in 35% of the total number of proposed dwellings being affordable, which on the face of it would represent a significant benefit.
53. However, the emerging Local Plan Review envisages 42 dwellings including 30% affordable housing for Willand. This is very substantially lower than both market and affordable housing growth proposed in this appeal. Even if I were to accept that the need for housing could be greater than planned for in the CS in order to reflect the Full Objectively Assessed Need for Mid Devon, I am not persuaded that a development on the scale proposed would be likely to reflect a requirement to meet identified local needs for either market or affordable housing. Furthermore, I have not been made aware of a pressing need for affordable housing in Willand such that the scale of housing proposed should override the provisions in the development plan.
54. Moreover, all of this must be considered in the wider context of creating a mixed and balanced community as promoted by the Framework. I am not persuaded that the proposal would make satisfactory provision for the shops and services that would be necessary to meet the growing needs of a village resulting from such rapid and substantial expansion. The influx of new households on the scale proposed would place additional pressure on the overall limited range of services and facilities in the village and whilst I accept that it is not necessary for the proposed development to be self-contained, I consider it would unbalance the settlement and undermine social cohesion. I give significant weight to the appeal scheme's conflict with the development plan and the Framework in this regard. This in turn limits the weight that I give to the appeal scheme's contribution to market and affordable housing.
55. Given that the Framework seeks to promote the vitality of our main urban areas, it seems to me that this chimes with the Council's development focus as expressed in CS policy COR 12. Insofar that CS Policies COR 1, COR 9, and DMP policy DM1 also seek to promote sustainable forms of development, I consider them to be in general conformity with the broad sustainable

development objectives of the Framework. I therefore give significant weight to the appeal scheme's conflict with these development plan policies.

56. The Framework says that planning should actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable. There is good availability of sustainable transport options in Willand, which would be further enhanced as part of the appeal scheme. In this regard, I do not find any material conflict with the Framework or the development plan.
57. There would be other benefits from the economic uplift likely to result from the construction process and as I have already said there would be no harm in terms of the retention of existing local businesses.
58. There would be minor harm to the character and appearance of the countryside. However, I do not consider that this would be of sufficient consequence to weigh materially against the appeal scheme. This general absence of harm is therefore a neutral factor in the overall planning balance.
59. In terms of the transport impacts of the proposal, Paragraph 32 of the Framework says that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe. For the reasons set out in my consideration of the second main issue, I do not find that to be the case here and thus this is also a neutral factor in the overall planning balance.
60. To conclude on the planning balance, I have not found harm in respect of the appeal scheme's effects on the highway network or, on balance, to the countryside. I have found that there would be some economic benefits of the appeal scheme. The proposal would also result in a substantial increase in the availability of housing in Mid Devon. However, I attach significant weight to its conflict with the development plan policies relevant to the scale and distribution of housing in Mid Devon and which I consider broadly reflect the sustainable development principles in national planning policy. In my view, the totality of these adverse impacts significantly and demonstrably outweighs the benefits of the appeal scheme.

Conclusion

61. I have taken into account the Council's HLS shortfall and have attached appropriate weight to the appeal scheme's benefits. I have found that, in some respects, the proposal is supported by certain Framework and development plan policies. However, in undertaking the tilted balance, the benefits of the appeal scheme do not override all other considerations. Accordingly, when the Framework is read as a whole, the proposal would not be sustainable development. As such, the Framework does not indicate a decision other than in accordance with the Development Plan.
62. For the above reasons and having had regard to all other matters raised, the appeal does not succeed.

Hayden Baugh-Jones

Inspector

Alison Fish BA(Hons) DipTP MRTPI Mid Devon District Council

Ian Sorenson Devon County Council

INTERESTED PERSONS:

Councillor Bob Evans	Member, Mid Devon District Council
Councillor Barry Warren	Willand Parish Council
James McKechnie	Hydrock, on behalf of Messrs Dorse

DOCUMENTS SUBMITTED AT THE HEARING

HD1 Technical Note 07 prepared by Jubb dated September 2017
HD2 Two copies of Unilateral Undertaking dated 2 October 2017
HD3 Appeal Decision APP/Y1138/W/17/3178479
HD4 A3 version of Proposed Site Access General View Drawing SK_001
Rev A HD5 A3 version of Proposed Site Access Drawing SK_001_01 Rev A

DOCUMENTS SUBMITTED AFTER THE HEARING

PHD1 Unilateral Undertaking dated 11 October 2017

Application No. 17/00924/MFUL

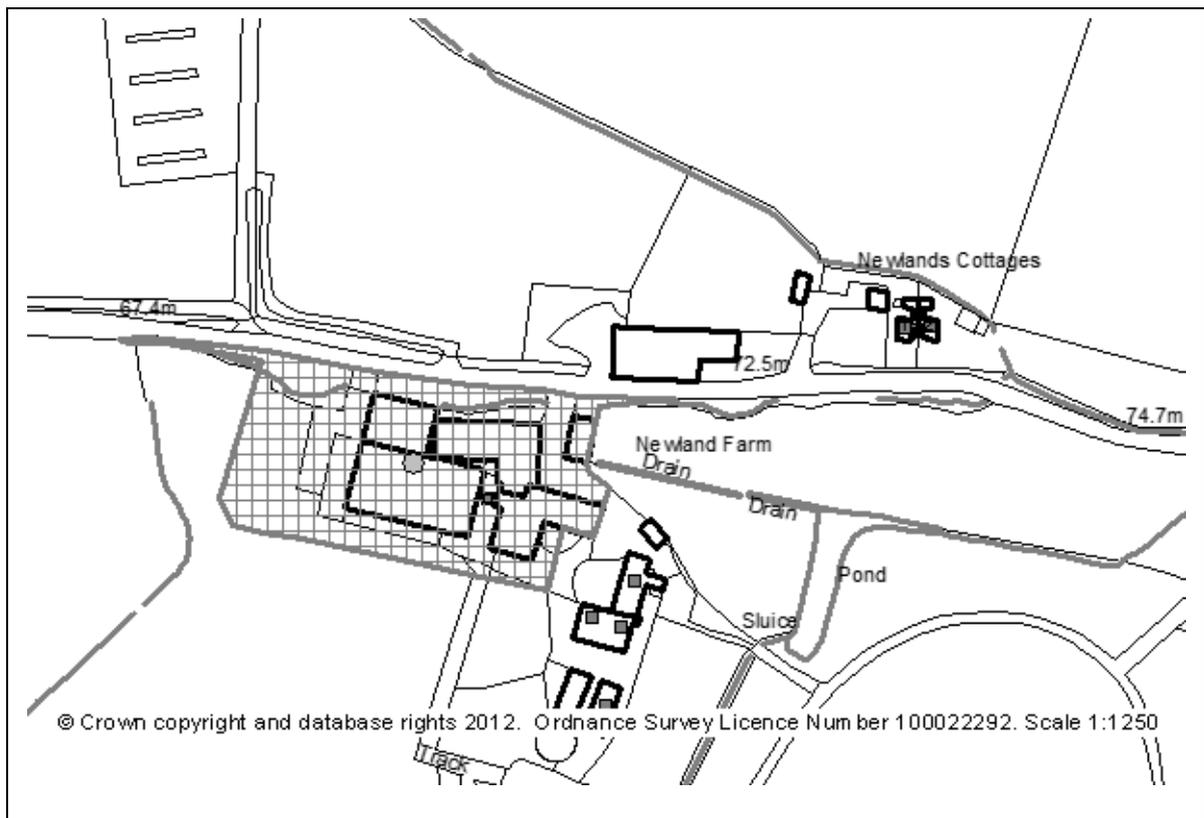
Grid Ref: 304296 : 107112

Applicant: Mr J Persey

Location: Land and Buildings at NGR 304296 107112
Newlands Farm
Cullompton
Devon

Proposal: Change of use of agricultural buildings to Class B1/B8 (Commercial Use) with associated yard and parking areas, landscaping and alterations to access

Date Valid: 14th June 2017



APPLICATION NO: 17/00924/MFUL

RECOMMENDATION

Grant permission subject to the prior to the signing of a section 106 (between the applicant and DCC only) relating to a financial contribution of £10,000 towards improvements at J28 Grant planning permission subject to conditions)

PROPOSED DEVELOPMENT

Change of use of agricultural buildings to Class B1/B8 (Commercial Use) with associated yard and parking areas, landscaping and alterations to access

The buildings are a mixture of good quality stone and brick built former barns along with a number of steel portal frame agricultural buildings, the latter being of little merit and design.

The site is located in a countryside location set off the A373 approximately 1.8km (1.12 Miles) east from Junction 28 of the motorway and 2.6km (1.63 Miles) east from Cullompton Town Centre. The buildings are disused agricultural buildings in varying states of disrepair; adjacent to the site is the former farm house and barns which have been converted to dwellings.

It is intended to share the existing access to these properties with the proposed B1 units to be located in the area closest to the dwellings on site. There is a further access located approximately 50 metres to the east to serve the remainder of the site for the articulated lorries which would be associated with the B8 use Distribution and storage.

The proposal is to reuse a number of the existing substantial buildings namely the stone and brick built buildings indicated as Buildings 3,4 and 5 (units H-Q) but to redevelop the portal farm buildings on the site and enhance the present dilapidated structures to provide modern facilities close to Cullompton.

The site is located within the area associated with the Cullompton Garden Village; following consultation with the Officer dealing with the village it is consider that there will be no negative impact on the proposal for the village site. There will be a mix of conversion and new build on the site.

APPLICANT'S SUPPORTING INFORMATION

Design and Access statement
Flood Risk assessment
Foul Drainage assessment
Letters from Alder King and Thorne and Carter
Travel/Transport assessment
Waste Audit
Structural survey
Wildlife survey
Surface water drainage strategy
Plans

RELEVANT PLANNING HISTORY

81/00015/FULL - PERMIT date 2nd February 1981
Renewal of permission for dutch barn for general storage

10/00258/PE - CLOSED date 9th February 2017

Proposed wind farm development

14/02066/PNCOU - PNP date 6th February 2015

Prior notification for the change of use of agricultural buildings to 3 dwellings under Class MB(a)

17/00924/MFUL - PCO date

Change of use of agricultural buildings to Class B1/B8 (Commercial Use) with associated yard and parking areas, landscaping and alterations to access

15/00208/PREAPP - CLO date 11th May 2015

PROTECT: Redevelopment of buildings for commercial and residential use

REASON FOR APPROVAL OF PERMISSION

It is acknowledged that the site being brought forward for development is within the countryside. However, given the scope of the proposed and the need for further sites, the scope of policy support available to the scheme in principal and technical assessment of the other material considerations as set out above, the application is recommended for approval subject to conditions.

DEVELOPMENT PLAN POLICIES

Mid Devon Core Strategy (Local Plan 1)

COR1 Sustainable Communities

COR2, Local distinctiveness

COR8, Infrastructure Provision

COR9, Access

COR11, Flooding

COR18 Countryside

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

DM5, Renewable and low carbon energy

DM6, Transport and air quality

DM8, Parking

DM11, Conversion of rural buildings

DM20 Rural employment development

CONSULTATIONS

Highways Authority - 27th July 2017 - The Highway Authority has concluded its survey works and are in the process of designing an improvement to the M5 junction 28 Eastern side.

This will have the impact of improving the flow of traffic to the motorway and reducing the queue lengths on the A373 Honiton road.

An agreement has been reached with regard to a payment of Monies to assist with works to Junction 28 this will be by way of a section 106 agreement between the land owner and DCC, there is no requirement for MDDC to be a party but a decision will need to be subject to this 106 agreement.

The access to the B8 section has been redesigned and now is compliant with DCC highways criteria. A number of Planning Conditions are to be put in place.

CULLOMPTON TOWN COUNCIL - 27th June 2017
No comment

ENVIRONMENTAL HEALTH - 31st August 2017 No Objection

Environment Agency No Objection

There may be a requirement for a licence.

Economic Development Officer

The site will bring forward employment land in relative proximity to the town of Cullompton, where there is a current lack of deliverable sites due to transport infrastructure constraints closer to the M5 where turning out onto the Honiton Road to reach Junction 28 is problematic. The site has already been in discussion with several businesses that are struggling to find other suitable sites in Mid Devon, and therefore would be meeting a need which isn't being met elsewhere in the District. Another factor in supporting this proposal is that it will set a positive precedent for ensuring the delivery of good quality employment space within the proposed Garden Village area, and will encourage the future delivery of infrastructure improvements between Kingsmill industrial estate and the Honiton Road.

I would suggest ensuring that large vehicles only be given permission to use the western entrance to the site so as not to create potential problems with regards to the plot's proximity to a dwelling.

DCC LOCAL FLOOD/COASTAL RISK MANAGEMENT - 12th September 2017 - Recommendation:
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.

Observations:

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 the following address:
<https://new.devon.gov.uk/floodriskmanagement/sustainable-drainage/>.

A further SUDs report has been assessed by DCC lead flood and their comments are that they withdraw their objection but would wish to see specific conditions these are set out at the end of the report.

REPRESENTATIONS

One objection has been received and summarised as follows:

1. Concern over flooding and contamination of the stream
2. Dangerous part of this road.
3. No pedestrian walk or Cycleway
4. Thought area allocated for housing for Village

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The main issues in the determination of this application are:

The application site is located on the south side of A373 Honiton Road to the east of Cullompton. Therefore the main issues in the determination of this application are:

1. Principle of development / Planning Policy / Planning History
2. Highway safety, movement issues and means of access
3. Design and Amenity
4. Flooding
5. Other matters

1. Principle of development / Planning Policy / Planning History

The principal of bringing forward the application scheme for a scheme comprising 16 units for commercial uses falling within the B1/B2/B8 use as per the layout, with units H-Q being restricted to B1 use due to their location close to and sharing an access with residential properties.

Building 1 (units A, B & C) will provide accommodation on 2 storeys in total extending to 685sqm gross internal area. With 16 allocated parking spaces
Building 2 (units D,E,F & G) will provide accommodation on 1 storey in total extending to 655sqm gross internal area. With 18 allocated parking spaces
Building 3 (units H, I, J & K) will provide accommodation on 1 storey in total extending to 235sqm gross internal area. With 11 allocated parking spaces.
Building 4 (units L, M, N & O) will provide accommodation on 1 storey in total extending to 276sqm gross internal area. With 5 allocated parking spaces.
Building 5 (units P & Q) will provide accommodation on 2 storeys with partial mezzanine first floor extending to 154sqm gross internal area. With 3 allocated parking spaces.

Policy COR14 establishes a target of providing 4000 square metres of employment floorspace, over the plan period of the adopted Core strategy (until 2026).

Land-use allocations for employment development are set out in the AIDPD with the site at Weeks farm identified for 15000 square metres of employment development. The other proposed development which affects this proposal within the AIDPD is AL/CU/16 which is for financial contributions toward M5 Junction 28. The DCC are in the process of agreeing a section 106 for the provision of £10,000 toward improvements at junction 28.

In addition policy DM 20 provides specific support for employment development in locations such as the application site that fall outside of a settlement boundary. The wording of policy DM20 is set out below:

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

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

An overview on the extent to which the application scheme complies with criteria a and b are set out below.

With regards to the test outlined at criteria c), the analysis above confirms the position on the supply side relating to the availability of employment land? In addition the comments of the LA's Economic Development officer are noted who has expressed support for the application scheme, noting the need for new employment space in Cullompton and the immediate area. Therefore in summary it is concluded that the application site is an appropriate location for employment development, for which there is a demonstrated need, and furthermore the proposals would, in principle, generally accord with policy COR14 and policy DM20

2. Highway safety, movement issues and means of access

Access to the site would be from the A373 via improved existing access to the site. This route is already used by traffic travelling to and from Cullompton and to the industrial estates located at Junction 28 and beyond.

The application scheme proposes that the means of access would be positioned towards the extremities of the site east and west of the site frontage. At the junction with the highway the scope of visibility for drivers leaving the site is indicated on the submitted plan. In total 56 parking spaces are proposed across the site with a further 3 HGV parking spaces, a number of bicycle parking spaces have been provided. The surface of the highway is designed in order to accommodate two way traffic.

The comments of the Highway Authority are set out above and it is noted that they are supportive of the scheme as described above, subject to the conditions as recommended. The number of parking spaces as proposed (54 plus 2 larger sized spaces) complies with the policy standards outlined at DM8 and the comments of the highway authority are noted regards parking. However if all units are B1/2, then the provision of parking, would fall short by 10 number spaces. Yet there would be no requirement to provide for the lorries and this area could be utilised to compensate for the lack of parking. A balancing approach has been undertaken to consider the appropriate split of parking provision.

The site is well located in relation to Cullompton and Junction 28 of the M5 in terms of transport links, although it is noted that there is limited ability for pedestrian access, and no known close bus -stop.

In summary from a sustainability point of view the site is well located close to Cullompton, with support from the Highway Authority in terms of the means of access into the site.

Therefore in summary it is concluded that the application scheme accords with policy COR9, DM8 and DM20 (a).

3. Design and Amenity

The current appearance of the site is somewhat of dilapidated portal frame agricultural buildings with some relatively good stone and brick built older style agricultural units, all visible within the street scene. It is recognised that the application scheme will change the landscape, with buildings and hardscape. It is also noted that in visual terms the site sits directly adjacent to a very busy highway. The site is relatively isolated in the open countryside.

In terms of the height and scale the new built form will sit similar to the original portal frame buildings which are to be replaced, and whilst the design is considered functional a brick detail is proposed to form the lower part of the walling with vertical boarding to the upper parts of the B1/B2/B8 units B-G. A new natural hedgerow is to be planted along the southern and western boundary to help soften the visual impact from the south.

Given the separation distance and juxtaposition between the development and the residential properties located to the east and south it is not considered that the application will interfere with the living conditions of these occupiers in terms of overlooking, overshadowing and/or creation of an oppressive environment, especially as the B2/B8 are located to the west of the site. No details have been provided with regard to how the boundary treatment will be for this specific area a condition will be imposed.

Overall given that nature of the proposed scheme it is considered that the proposals accord with policy COR2, DM2 and criterion (b) of DM20.

4. Flooding

Whilst historically the site is prone to flooding given the culverted watercourse at the North West corner of the site, the application is accompanied by an appropriate Flood Risk Assessment.

The submitted evidence base has been considered by DCC Lead Flood and they have confirmed that they do not now raise any objection to the proposals. In addition conditions will be imposed to ensure the delivery of a SUDs scheme to manage the disposal of surface water from the site.

There has been one representation which raises the issue of flooding to adjoining fields; it is considered that the proposed SUDs scheme will militate against the effects of the proposed.

On this basis it is not considered that there would be any policy support to refuse the application on flood risk grounds for future occupiers and/or to the existing environment, and therefore the application is considered to accord with policy COR11.

5. Other matters

Conditions are recommended to deal with boundary treatment especially adjacent to the 3 dwellings located to the east and south of the site.

CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three* years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice.
3. No development shall begin until there has been submitted to, and been approved in writing by, the Local Planning Authority a plan indicating the height, positions, design, materials and type of boundary treatment to be erected on the site and a timescale for its implementation. The boundary treatment so approved shall be completed in accordance with the approved details and shall be so retained.
4. 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.

5. 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 Surface Water Drainage Strategy (ref Newland Farm Cullompton Rev A dated November 2017)
6. 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 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.
7. 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.
8. The details of the surface water drainage scheme shall be completed in accordance with the details shown within the approved Surface Water Drainage Strategy as set out in the document undertaken by Pitman associates dated November 2017 submitted to and approved by the local planning authority, and following implementation shall be so retained in working order.
9. Units H through to Q inclusive as shown on approved site plan 2276-PL-101 REV B thereon shall be used for B1 use only and for no other purpose (including any purpose in Class B2 or B8 of the Schedule to The Town and Country Planning (Use Classes) Order 1987 (as amended)), or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification.
10. Units A through to G inclusive as shown on approved site plan 2276-PL-101 REV B thereon shall be used for B1/B2 or B8 use(s) only and for no other purpose of the Schedule to The Town and Country Planning (Use Classes) Order 1987 (as amended)), or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification.
11. No retail sales shall be carried out on any part of the application site
12. No manufacturing, fabrication or other industrial process shall take place outside the building(s) the subject of this application and shown on drawing No 2276-PL-101 REV B
13. The proposed estate road, footways, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, road maintenance/vehicle overhang margins, embankments, visibility splays, accesses, car parking and street furniture shall be constructed and laid out in accordance with details to be approved by the Local Planning Authority in writing before their construction begins.

For this purpose, plans and sections indicating, as appropriate, the design, layout, levels, gradients, materials and method of construction shall be submitted to the Local Planning

Authority.

14. 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

15. 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,
 - (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;

16. Prior to the use of any above ground materials first being used on site associated with the buildings details or samples of the materials (including but not exclusively colour of render, Brick, Stone, Mortar, windows, doors, roof covering/detailing, paintwork and colourwash) to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details or samples and be so retained.

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

REASONS FOR CONDITIONS

1. In accordance with the provisions of Section 51 of the Planning and Compulsory Purchase Act 2004.
2. For the avoidance of doubt and in the interests of proper planning.
3. In order to ensure appropriate uses are undertaken within proximity of residential units to protect their amenity.
4. To ensure that surface water from the development is discharged as high up the drainage hierarchy as is feasible.
5. To ensure the 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.
6. To ensure that the development's permanent surface water drainage management systems will remain fully operational throughout the lifetime of the development.
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 that surface water drainage is managed in a sustainable way in accordance with Policy COR11 of the Mid Devon Core Strategy (2007).
9. In order to ensure appropriate uses are undertaken on this rural site
10. In order to ensure appropriate uses are undertaken on this rural site
11. To prevent unnecessary traffic from being attracted to the site as a result of direct sales to retail customers, which may adversely affect safety on the local road network.
12. To safeguard the character and amenities of the area in accordance with policy DM2
13. To ensure that adequate information is available for the proper consideration of the detailed proposals.
14. 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
15. To ensure the provision of adequate facilities throughout the construction period and in the interest of highway safety.
16. To ensure that adequate information is available for the proper consideration of the detailed proposals and in the interest of the amenity of the area and in accordance with policy DM2.
17. In order to satisfactorily manage any ground contaminants that be uncovered on the site.

REASON FOR APPROVAL OF GRANT OF CONSENT

Following an assessment of the application scheme it is considered that the proposal is supportable in

policy terms as a matter of principle. The proposed access into the site remains acceptable in terms of the visibility splays that can be achieved and the level of onsite parking is policy compliant.

The building designs are functional but the height, scale and massing of the new buildings and their site locations are such that the scheme would sit comfortably in its context and in relation to its neighbours. Various conditions are recommended. On this basis the proposals are considered in accordance with the relevant policies: policy C0R2, COR5, COR9, COR 11, COR14, COR18 of the Mid Devon Core Strategy 2007 and policies DM1, DM2, DM8, DM20 of the Local Plan Part 3: (Development Management Policies) and advice in the National Planning Policy Framework.

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

Application No. 17/01700/FULL

Grid Ref: 295022 : 112210

Applicant: Mid Devon District Council

Location: Common Room (Ground Floor of Flat 41)
Broad Lane
Tiverton
Devon

Proposal: Change of use of ground floor common room to a one bedroom flat

Date Valid: 9th November 2017



APPLICATION NO: 17/01700/FULL

CALL-IN AS MID DEVON DISTRICT COUNCIL OWNS THE PROPERTY

RECOMMENDATION

Grant permission subject to conditions

PROPOSED DEVELOPMENT

Change of use of ground floor common room to a one bedroom flat. At present the existing property contains an entrance hall, store room, W/C and sitting area containing a kitchen. The proposal would require the existing doorway to be moved approximately 0.5m to the west in order to allow internal alterations to provide a single bedroom but this doorway would still be within an area of existing glazing and therefore the overall change to the outside appearance would be minimal. No further external changes would be required with the only other internal changes being that the existing W/C and kitchen area would be replaced by a bathroom with a new kitchen/dining area provided within the existing sitting area. The unit shares a communal front and rear grassed garden.

APPLICANT'S SUPPORTING INFORMATION

Location Plan

Existing and Proposed Floor Plans

Supporting Letter

Flood Risk Assessment

RELEVANT PLANNING HISTORY

There is no recent planning history associated with this unit.

With respect to the remaining residential block of flats as a whole, the following history is relevant:

13/01326/FULL – PERMIT date 7th February 2014

Conversion and partial retention of 8 bedsits into 4 flats at 23, 25, 31, 33, 35, 37, 45 & 47 Broad Lane Tiverton

DEVELOPMENT PLAN POLICIES

Mid Devon Core Strategy (Local Plan 1)

COR1 – Sustainable Communities
COR2 - Local Distinctiveness
COR3 - Meeting Housing Needs
COR5 - Climate Change
COR7 – Previously Developed Land
COR8 - Infrastructure Provision
COR9 - Access
COR11 - Flooding
COR12 - Development Focus
COR13 – Tiverton

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

AL/IN/2 - Development Without Community Infrastructure Levy
AL/IN/3 - Public Open Space

Mid Devon Local Plan Part 3 (Development Management Policies)

DM1 - Presumption in favour of sustainable development
DM2 - High quality design
DM8 – Parking
DM14 - Design of housing
DM15 - Dwelling sizes

CONSULTATIONS

Highway Authority - 21st November 2017

Standing advice applies. In this instance, the application form outlines 2 parking spaces would be available for the unit. Parking takes place within Wing Field Close with signs advising that parking is for residents and their visitors only. It is noted that a planning permission was approved in 2013 which reduced the number of residential units in the existing residential block with 8 bedsits converted into four flats which would have resulted in an overall betterment in terms of parking from the original parking situation for the residential development. In any event, the site is located approximately 400m from the Town Centre, with public transport and services within walking distance of the proposed flat.

Tiverton Town Council – 3rd October 2017 - Support

Environmental Health - 4th October 2017:

Contaminated Land - No objection to this proposal

Air Quality - No objection to this proposal

Environmental Permitting - No objection to this proposal

Drainage - No objection to this proposal

Noise & other nuisances - No objection to this proposal

Housing Standards - No comment

Licensing - The applicant will need to apply for a licence and he has already been made aware of this

Food Hygiene - Not applicable

Private Water Supplies - Not applicable

Health and Safety - No objection to this proposal. The applicant is aware of requirements.

REPRESENTATIONS

None - This report is subject to any consultation responses that may be received as the consultation period had not yet expired at the time of writing this report but will have ended by the date of the Planning Committee.

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The main issues in the determination of this application are:

1. Policy and procedure
2. Highways and highway safety
3. Design and appearance of development and visual impact on landscape
4. Living conditions of the occupiers of nearby residential properties
5. Flooding issues
6. S106 Obligations
7. Sustainable development balance.

1. Policy and procedure

This is an application relating to the conversion of an existing common room within a block of flats to a one bedroom flat, which the applicant has outlined was once the case when originally constructed.

The common room is located on the ground floor below Flat 41 on the first floor and would have a

similar layout. The site is within the Settlement Limits of Tiverton whereby residential development is supported subject to meeting other criteria as will be considered below.

S.38[6] of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the Development Plan, unless material considerations indicate otherwise. The National Planning Policy Framework [the Framework], published by the Government in March 2012, is noted as one such material consideration. Paragraph 7 of the NPPF outlines the three dependent roles of sustainable development, being those of an economic, social and environmental role. It is considered that each role needs to be satisfied for a proposal to be considered a sustainable development. Paragraph 8 outlines the need to guide development to sustainable solutions.

In addition to the NPPF, the Local Authority needs to determine this proposal on the basis of a number of policies contained within the Development Plan. In this instance, the relevant policies are considered to include COR1 [Sustainable Communities], COR2 [Local Distinctiveness], COR3 [Meeting Housing Needs], COR5 [Climate Change], COR7 [Previously Developed Land], COR8 [Infrastructure Provision], COR9 [Access], COR11 [Flooding], COR12 [Development Focus], COR13 [Tiverton] of the Core Strategy and DM1 [Presumption in favour of sustainable development], DM2 [High quality design], DM8 [Parking], DM14 [Design of housing] and DM15 [Dwelling sizes] of the Development Management Policies [Local Plan Part 3].

Policy COR1 of the Mid Devon Core Strategy [Local Plan Part 1] seeks sustainable growth which enhances the self-sufficiency of communities and provides access to education, jobs and sustainable transport. It seeks to provide accessible forms of development that reduce the need to travel by car and are integrated with public transport and other sustainable modes of travel and allow for ease of movement. Policy COR2 requires development to sustain the distinctive quality, character and diversity of Mid Devon's environmental assets through high quality sustainable design which reinforces the character and legibility of Mid Devon's built environment and creates attractive places. COR3 sets a District-wide target for new housing development with COR7 outlining the need to guide to previously developed land and COR12 seeks to focus development in the most sustainable locations. Policy COR13 outlines the appropriate development for the Town which includes the creation of residential units.

In light of the policies within the Core Strategy and Development Management Policies, the principle of residential development is accepted but a key issue is considered to relate to adopted planning policy and whether this would represent sustainable development. This matter and other planning

considerations are considered further below.

2. Highways and highway safety

No objections have been received to this proposal on the grounds of highway safety and the Highway Authority has stated that standing advice should be applied in the determination. The application form outlines 2 parking spaces would be available for the proposed unit. Parking currently takes place within Wing Field Close with signs advising that parking is for residents and their visitors only and it is noted that a planning permission was approved in 2013 which reduced the number of residential properties within the block as 8 bedsits were converted to four flats which resulted in a betterment in terms of parking for the original residential development. In any event, the site is approximately 400m from the Town Centre, which is considered to be within walking distance of public transport and services.

Policy COR9 of the Mid Devon Core Strategy [Local Plan part 1] requires that proposals are in accessible locations and road safety is managed through control of development. Policy DM2 of the Local Plan 3 Development Management Policies requires development to be safe and accessible. The parking standards required for the development are outlined by policy DM8 of the Local Plan 3 Development Management Policies. The application site is located within a residential area and close to services/facilities and therefore on balance is considered to be in accordance with adopted policy, being acceptable in highway terms, within a sustainable location.

3. Design and appearance of development and visual impact on landscape

At the current time, the front elevation of the building for the common room is not to dissimilar to other flats within the residential block, with the only external change required being the relocation of the entrance door into the area of existing glazing immediate to the side of the existing doorway. Given the position of the stairwell in front of the property, views to this external alteration will be limited from the public highway. As a result, it is considered that the residential development proposed would be acceptable in accordance with Policies DM2 and DM14 of the Local Plan 3 Development Management Policies.

The overall size of the floor area and rooms within would meet the minimum internal floorspace requirements as outlined within Policy DM15 [Dwelling sizes] of the Local Plan 3 Development Management Policies.

4. 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.

Given the position of accommodation on the ground floor and adjacent a walkway on one side, it is only the adjoining properties above and to the side which could be impacted but given that the building is currently used as a common room, it is not considered that there would be a significant detrimental impact on occupiers of neighbouring property through the introduction of a one bedroom flat. It has been confirmed that the first floor ceiling will be upgraded in accordance with Building Regulation – Resistance to sound: Approved document E. As a result, the residential development as proposed would comply with policy DM2 of LP3 DMP.

5. Flood Risk Issues:

The site is located in Flood Zone 3 and Policy COR 11 (Flooding) states that ‘The impact of flooding, taking account of the likely impact of climate change, will be managed in order to:

- a) reduce the risk of flooding to life and property where possible;
- b) guide development to sustainable locations with the lowest flood risk by applying a sequential test, and locate appropriate development in areas of higher flood risk only where the benefits outweigh the risk of flooding;
- c) ensure that development does not increase the risk of flooding of properties elsewhere.’

The application site is located within an existing block of residential flats with reference made to the fact that it was previously a residential unit prior to being a common room, although further to a search of the planning history for the building, no plans have been found to definitively show this was the case.

As there are no significant changes to the building there is not considered to be any increased flood risk as a result of the proposal with the use of a common room by residents not being too dissimilar to that of a residential unit, with the accommodation being the same albeit with no bedroom facility.

It has been noted by the applicant that the general location in question is protected by a reinforced concrete flood defence built several years ago and that since its construction, no flooding has occurred. The applicant has also outlined within their FRA that the Environment Agency Flood Alert

Service can be subscribed to and flood prevention measures are to be installed to deal with any event where any drains back-up through flooding. The entrance door to the property is also to be replaced with a Flood Rated UPVC door and new vents are to be installed above 700mm. The building is connected to existing mains sewage and storm water drainage.

The Sequential and Exception Tests do not need to be applied to minor developments and changes of use, except for a change of use to a caravan, camping or chalet site, or to a mobile home or park home site. The proposed use is classified as a more vulnerable use and the current use is considered to be similar (residential in nature) and therefore the overall change of use is considered to be appropriate and compatible development within Flood Zone 3 in accordance with the guidance set out in the National Planning Policy Framework and the Planning Practice Guidance paragraphs 66 and 67. Overall the proposal is considered to be in accordance with policies COR11 and COR13.

6. S106 Obligations

As a result of this development, in the event that Members were minded to approve this application a Unilateral Undertaking would be required for a financial contribution to be paid towards public open space as follows:

- Public Open Space contribution of £725 allocated to provision of junior multiplay at West Exe Neighbourhood Park, Tiverton (Contribution based on 3 chargeable rooms with combined rooms counted as two rooms - £725).

- Public Open Space monitoring fee of £110.80

As the applicant for this proposal is Mid Devon Council, there is no reason to believe that this payment would not be provided given that this is adopted policy.

7. 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.

The site is located within the Settlement Limits where the principle of residential development is acceptable but the application also 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 works and sales, increased revenues to the Council, and additional spending by local residents on local services and facilities. Approval is therefore recommended.

CONDITIONS

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

REASONS FOR CONDITIONS

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

REASON FOR APPROVAL OF PERMISSION/GRANT OF CONSENT

Having regard to all material considerations, it is concluded that the application does accord with adopted policy within the Development Plan and the presumption in favour of sustainable development.

When tested against Paragraph 14 of the Framework the Local Planning Authority consider that any 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 and COR13 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.

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

Application No. 17/01792/LBC

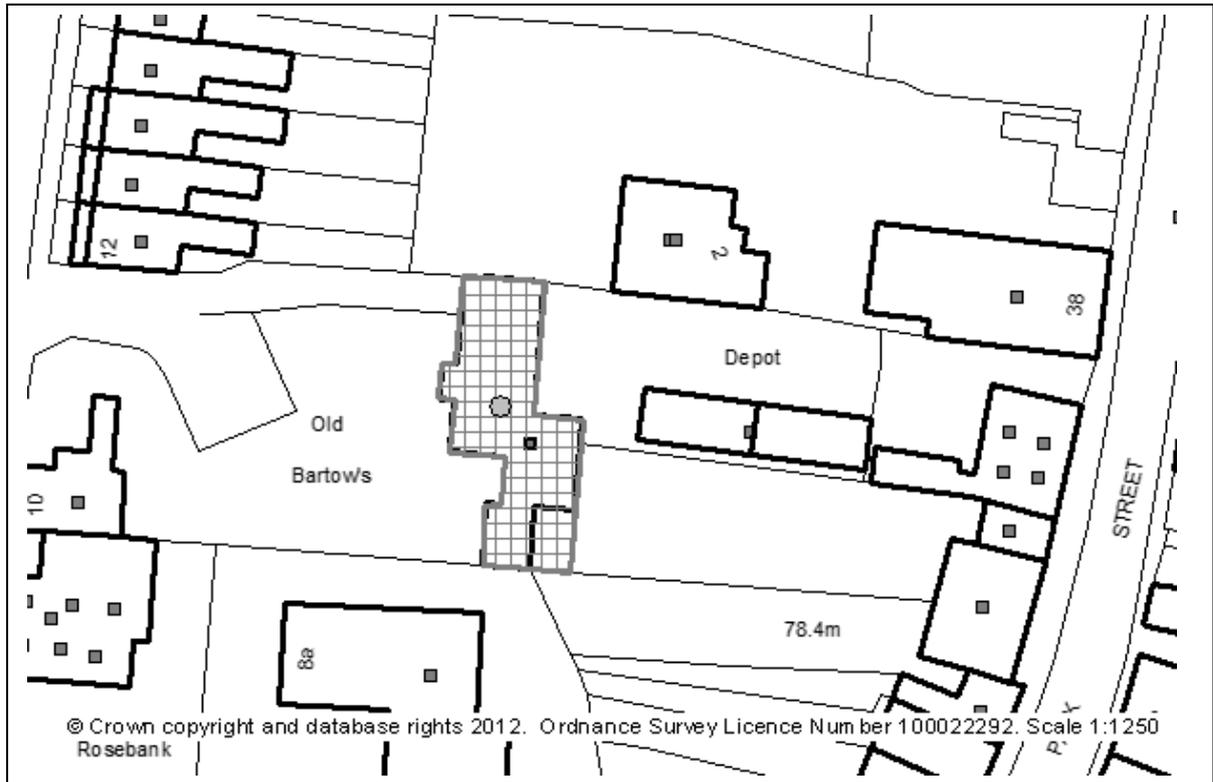
Grid Ref: 295613 : 113044

Applicant: Mr S Flaws

Location: Old Bartows
Bartows Causeway
Tiverton
Devon

Proposal: Listed Building Consent to replace two windows with patio door on west elevation and creation of cupboard and shower room on first floor

Date Valid: 24th November 2017



APPLICATION NO: 17/01792/LBC

To be considered at committee due to applicant being a MDDC councillor

RECOMMENDATION

Grant Listed Building Consent subject to conditions

PROPOSED DEVELOPMENT

Listed Building Consent to replace two windows with patio door on west elevation and creation of cupboard and shower room on first floor

APPLICANT'S SUPPORTING INFORMATION

Photographs

Location plan

Block plan

Design and Access statement including basic heritage statement and schedule of works

Scaled drawings, as existing and as proposed

RELEVANT PLANNING HISTORY

93/01849/FULL - NOBJ date 5th January 1994

Change of use from dwelling to day centre for people with learning difficulties and provision of on-site parking

95/00130/CAC - PERMIT date 16th March 1995

Conservation Area Consent for the demolition of defective cob & timber frames external walls and their reinstatement with blockwork cavity walls and render (County Matter)

95/01228/FULL - PERMIT date 5th October 1995

Provision of new window in rear (west) elevation at first floor level

95/01308/CAC - PERMIT date 11th October 1995

Conservation Area Consent for the formation of a new window opening in the rear (west) elevation, at first floor level.

12/01171/CAT - NOBJ date 13th September 2012

Notification of intention to fell 1 Pittosporum tree within the Conservation Area

12/01351/CAT - NOBJ date 5th October 2012

Notification of intention to fell and carry out works to various trees within a Conservation Area

16/00392/FULL - PERMIT date 12th May 2016

Change of use of former day centre to single residential dwelling

16/00394/LBC - DELETE date 16th March 2016

Listed Building Consent for internal and external alterations (Applicant only applying for change of use - no internal or external changes. New plans to be submitted for 16/00392/FULL)

16/00565/CAT - CLOSED date 14th April 2016

Five day notification of intention to remove 1 tree within a conservation area (dead)

16/00756/FULL - PERMIT date 15th July 2016

Erection of gates across existing drive entrance

16/00757/LBC - PERMIT date 15th July 2016

Listed Building Consent for erection of gates across existing drive entrance, installation of ground floor window, and other internal alterations

OTHER HISTORY

16/00100/PREAPP - CLO date 26th January 2016

PROTECT - Proposed change of use of former day centre to residential to include associated refurbishment, modernisation, demolition and extension

16/00105/PREAPP - CLO date 28th January 2016

PROTECT - Proposed works to a listed building

DEVELOPMENT PLAN POLICIES

Mid Devon Local Plan Part 3 (Development Management Policies)

DM 27 Heritage Assets

CONSULTATIONS

Tiverton Town Council – support

REPRESENTATIONS

None

MATERIAL CONSIDERATIONS AND OBSERVATIONS

This application relates to a detached listed building (grade II) lying in Tiverton conservation area. The proposals are to replace two small windows on the west elevation (facing the road) with a pair of French doors. These doors will serve the kitchen and face onto the garden.

Old Bartow's is thought to date from the early 19th century but may have earlier origins. It is an elegant property set back from the road in reasonable sized gardens. The rear wall of the house forms its rear boundary. To the front are gardens and a parking area. The property has high boundary walls on three sides. Until recently it was used as a day centre for those with learning difficulties but has now received permission for use as a single dwelling. The building was listed formally in 2000 some time after the initial survey was carried out by English Heritage inspectors. Between the survey and the formal listing, extensive works were carried out to the building including the near entire stripping out of the interior and its historic features (fire places, joinery, staircases etc.) as well as the replacement of all timber sash windows with uPVC windows. This was entirely within the law but has resulted in the unusual circumstances of the list description not matching the house and a substantially altered building being listed grade II. The conservation officer has advised the owner to pursue a delisting of the building but in the mean time the requirement for listed building consent for various works remains.

The two small window openings that currently serve the kitchen are not thought to be original to the building – their shape and size are not in keeping with the rest of the house on this formal elevation. The windows themselves are uPVC and have no historic merit. The principle of making alterations is therefore accepted. The proposal will create a better relationship between the house and garden. The size and proportions of the French doors are suitable for the style of the house and will not cause visual harm. There will be some loss of historic fabric (wall removal) but this is not considered to create harm to the listed building given the degree of loss.

The design of the French doors themselves is subdivided into smaller panes to fit in with the design of other fenestration on the house – this was negotiated with the applicant and agent. The materials are uPVC to match the other windows on the house and whilst this would not normally be supportable, given the history of the house and its listing (see above), it is acceptable.

A shower room and cupboard are proposed in one part of a first floor bedroom. The shape of the proposed partition simply divides a large bedroom space into two and this change to the plan from of the listed building creates no harm.

The works are considered to be reasonable and to fit in with the style and appearance of the listed building. No additional harm is caused to the special interest of the building. The works are clearly outlined in the application and it is not considered necessary to add any conditions other than those relating to time period and conformity.

CONDITIONS

1. The works hereby permitted shall be begun before the expiration of three years from the date of this consent.
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 Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by 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 GRANT OF CONSENT

The proposed works are considered to cause no additional harm to the listed building which has been extensively altered in the past. The remaining character and appearance is preserved and enhanced and therefore the alterations are acceptable. The proposal is therefore in accordance with the Mid Devon Local Plan (Part 3) policy DM27 and the National Planning Policy Framework and should be granted consent.

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

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Major Applications with no Decision

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

Item No.	Weeks	TARGET DATE	REFVAL	PROPOSAL	LOCATION	NAME	Expected Decision Level	
							Delegated	Committee
1	1	02/03/2018	17/01491/MFUL	Siting of 2 replacement water tanks; demolition of concrete water tanks and relocation of existing warehouse building; demolition of existing chemical store and erection of new warehouse	Aston Manor Brewery Co Ltd Howden Road Tiverton Devon EX16 5HL	Mr Adrian Devereaux	DEL	
2	4	12/02/2018	17/01704/MFUL	Erection of an extension (1105 sq. m.) to an existing agricultural livestock building	Land at NGR 309053 110385 Allhallows Farm Blackborough Devon	Mr Daniel Rance	DEL	
3	5	06/02/2018	17/01713/MFUL	Construction of an earth bank slurry store (1980 sq. m)	Land at NGR 309064 110450 (Allhallows Farm) Blackborough Devon	Mr Daniel Rance	DEL	
	8	17/01/2018	17/01660/MOUT	Outline for the erection of 10 dwellings	Land at NGR 287219 106314 Barnhill Close Cheriton Fitzpaine Devon	Mr Simon Trafford	COMM	COMM
	8	17/01/2018	17/01718/MFUL	Erection of extension to existing industrial unit for Class B8 use (1,660sqm) and additional 18 car parking spaces	Pencarrie Ltd Unit 14 South View Estate Willand Cullompton Devon EX15 2QW	Mr David Green	DEL	
6	12	21/12/2017	17/01361/MFUL	Erection of garden sales area, warehouse building, alterations to existing garden centre, creation of new access on to B3181, change of use of land for the creation of public parking area and new commercial vehicle access and turning area	The Old Well Uffculme Cullompton Devon EX15 3ES	Mrs Alison Fish	DEL	DEL
7	12	15/12/2017	17/01225/MFUL	Construction of a slurry lagoon (2738sqm) and creation of new vehicular access	Land and Buildings at NGR 302603 103592 Weavers Meadow Langford Devon	Mr Daniel Rance	DEL	
8	12	19/12/2017	17/01511/MOUT	Outline application for the erection of up to 120 dwellings, public open space, vehicular access and associated infrastructure	Land at NGR 282065 100892 (Chapel Downs Farm) North of Queen Elizabeth Drive Barnstaple Cross Devon	Miss Helen Govier	COMM	COMM

<i>Item</i>	<i>Weeks</i>	<i>TARGET DATE</i>	<i>REFVAL</i>	<i>PROPOSAL</i>	<i>LOCATION</i>	<i>NAME</i>	<i>Expected Decision Level</i>	
<i>No.</i>							<i>Delegated</i>	<i>Committee</i>
9	14	04/12/2017	17/01359/MOUT	Outline for the erection of 84 dwellings and construction of new vehicular access onto Turnpike Road	Land and Buildings at NGR 302469 114078 Higher Town Sampford Peverell Devon	Mr Daniel Rance	COMM	COMM
10	16	17/11/2017	17/01323/MOUT	Outline for the relocation and expansion of Tiverton High School and the integrated development of Tiverton Community Arts Theatre	Tiverton High School & Land East of Bolham Road Bolham Road Tiverton Devon EX16 6SQ	Ms Tina Maryan	COMM	COMM
11	17	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	COMM
12	19	22/11/2017	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
13	19	27/10/2017	17/01179/MFUL	Erection of 28 affordable dwellings, together with associated landscaping, highways and drainage infrastructure	Land at NGR 303340 110341 (Land off Silver Street) Willand Devon	Miss Hannah Cameron	COMM	COMM
14	21	03/11/2017	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
15	23	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
16	24	27/09/2017	17/00982/MFUL	Erection of 49 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
17	25	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	DEL	DEL
18	26	13/09/2017	17/00924/MFUL	Change of use of agricultural buildings to Class B1/B8 (Commercial Use) with associated yard and parking areas, landscaping and alterations to access	Land and Buildings at NGR 304296 107112 Newlands Farm Cullompton Devon	Mr Daniel Rance	COMM	COMM

<i>Item</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	28	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
20	33	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
21	40	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
22	42	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
23	46	24/04/2017	17/00106/MOUT	Erection of 16 dwellings with formation of access and associated works	Land at NGR 306965 113252 (North of Belle Vue) Ashley Road Uffculme Devon	Ms Tina Maryan	COMM	COMM
24	56	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
25	58	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
26	64	20/12/2016	16/01424/MOUT	Outline for the development of up to 330 dwellings together with public open space, associated infrastructure and other works including vehicular access, internal roads, pedestrian/cycle links and highway improvements (Revised scheme)	Land at NGR 298671 113603 Uplowman Road Tiverton Devon	Mrs Christie McCombe	COMM	COMM

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LIST OF APPEAL DECISIONS FROM 17.10.17 to 19.12.17

Application No	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
16/01768/FULL	Conversion of existing detached barn to dwelling	Land and Buildings at NGR 284259 102707 Broxford House Upton Hellions Devon	Refuse permission	Delegated Decision	Refuse permission	Written Representations	Allow with Conditions

Summary of Inspectors Comments

The appeal was taken forward on the basis that the application scheme failed the tests established by policy DM11 in that the barn does not positively contribute to the rural character of the area, which is the initial test of Policy DM11. Furthermore the application scheme includes significant rebuilding, alteration and extension which is not allowable.

The inspector found in favour of the application on the basis of support from paragraph 55 of the NPPF, and policy DM11 in part in that the building is of substantial and permanent construction. Although the plans shown an extended building in terms of its height, scale and massing the Inspector concluded the scope of the alterations would be compliant with DM11. On this basis the Inspector was minded to grant planning permission.

16/01811/MOUT	Outline for the erection of up to 259 dwellings, with public open space, landscaping and associated infrastructure	Land at NGR 303184 110348 Silver Street Willand Devon	Refuse permission	Delegated Decision	Refuse permission	Informal Hearing	Appeal Dismissed
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Summary of Inspectors Comments

Please see full appeal decision attached to application 17/00652/MOUT (item 2 on this agenda)

16/01075/FULL	Erection of a dwelling	Land and Buildings at NGR 292707 102129	Refuse permission	Delegated Decision	Refuse permission	Written Representations	Appeal Dismissed
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Application No	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
		(Rear of The Old Bakery) Jericho Street Thorverton Devon					

Summary of Inspectors Comments

Two main issues were whether the proposals would: preserve the settings of various grade II listed buildings, including 3 Silver Street and preserve or enhance the character or appearance of the Thorverton Conservation Area (TCA) and; compromise highway safety interests along Jericho Street.

The Inspector found that the appeal site contributes to the significance of several listed buildings and provides a pleasing sense of green space that adds to the special qualities of the Thorverton Conservation Area. The private large gardens of properties as well as open green spaces are important to the settings of many listed buildings and contribute to individual areas of Thorverton and the village as a whole. The Conservation Area was described as a sizeable area that includes buildings from different periods and of various sizes and styles. The significance of this designated heritage asset is derived primarily from the special architectural qualities of the numerous listed buildings and the special historic interest that includes the development and growth of the settlement, including the leat, stone pedestrian bridge and ford.

The Inspector concluded that the proposed dwelling, of modest size would be finished to reflect the traditional materials found within the Conservation Area. The contemporary design would also reflect some of the distinctive qualities of the built environment. However, this new building would occupy a sizeable part of the site and would markedly erode its green, open qualities. The height and mass of the proposed dwelling would also interrupt views of the rear roof slope of 3 Silver Street. This new house would intrude into the setting of this listed building and diminish an appreciation of its special architectural and historic qualities. To a lesser extent, it would also erode an understanding of the historic interest of the listed buildings to the south west in Jericho Street. In addition, the loss of green space would detract from the character of the TCA. The proposed development would conflict with the provisions of DMP policy DM2(c).

It was concluded that the proposal would result in less than substantial harm to the significance of the above noted designated heritage assets. This harm would be at the lower end of the less than substantial category. This does not amount to a less than substantial planning objection. In considering the impact of a proposed development on the significance of such assets great weight should be given to an asset's conservation. The harm needed to be weighed against the public benefits of the proposal. It was concluded that the proposal would fail to preserve the settings of various grade II listed buildings, including 3 Silver Street, and would fail to preserve or enhance the character or appearance of the TCA.

Highways

Highway safety was noted as an important material consideration when assessing development proposals. Given the restricted visibility at the site entrance the Council's caution regarding an increased use of the access was understandable. On balance, the proposal would be unlikely to pose a significant risk to highway safety interests.

Planning balance

The public benefits of the proposals are insufficient to outweigh the less than substantial harm to the significance of designated heritage assets. The proposal is therefore contrary to DMP policy DM27. The proposal conflicts with the provisions of the development plan and fails to satisfy the environmental dimension to sustainable development. Appeal dismissed. No costs awarded.

Application No	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
17/00334/CLU	Certificate of lawfulness for the existing use of structures as a single residential dwelling for a period in excess of 10 years	The Bungalow Cheriton Fitzpaine Credon Devon EX17 4HF	Refuse Certificate of Lawful Use	Delegated Decision	Refuse permission	Written Representations	Appeal Dismissed

Summary of Inspectors Comments

The appeal relates to a structure composed of a caravan and a portacabin set a short distance apart but linked at the sides by concrete blockwork and roofed over. The CLU was sought for the use of the caravan, portacabin and connecting structure as a single dwelling. The central issue is whether the dwelling is a mobile structure involving a use of land (though it may be a permanent residential use), or whether operational development has occurred such that the structure now constitutes a building used as a dwelling. The inspector concluded that the primary elements (caravan and portacabin) were originally designed to be transportable and remain so in the sense that temporary supporting works may be required to enable this to be achieved. The existence of a 6 feet wide connecting structure between them does not lead to a conclusion that the whole structure represents a building. On the balance of probability it has not been demonstrated that the caravan and portacabin have ceased to be used as a temporary structure for full time residential occupancy and become a dwelling house.

6/00140/UDRU	Appeal against	Longwood Farm Burlescombe Tiverton Devon EX16 7JT				Enf Written Reps	Appeal Allowed
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Application No	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
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Summary of Inspectors Comments

Enforcement Notice issued on 13 June 2017 against the unauthorised material change of use of the land from agriculture to a mixed use of agriculture and use for the siting of structures for human habitation.

The Notice required the appellant to cease the use of the land for human habitation and residential purposes, permanently remove from the land all buildings and chattels used in association with the occupation of the land and to restore the land to its former condition and use as agricultural land. The period for compliance was 6 months.

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

The Inspector acknowledges that at the time the Enforcement Notice was issued the Council was satisfied that work on the barn had ceased such that a material change of use of the land had occurred which did not benefit from permitted development rights, however, goes on to note that "in the case of ground (C), an appellant can, if necessary, rely upon matters occurring since the date of issue of the notice to show that the development....does not amount to a breach of planning control".

The Inspector found that, at the time of his visit, work had recently taken place which he considered demonstrated that work appeared to be continuing to construct the foundations of the agricultural barn. Furthermore, he was satisfied that the timber structure was reasonably required in connection with the development. Although "not apparent [to him] at the site visit", the Inspector accepted the appellant's assertion that the timber building is a caravan as defined in the Caravan Sites and Control of Development Act 1960 and is such, considered the building fit the requirements of providing temporary living accommodation for the duration of the operations connected with the agricultural barn.

Despite the lack of progress evidenced on site, the Inspector concluded that work appeared to be continuing and that the provision of the timber structures sited on the land fall within the scope of permitted development, "subject to their removal and the land reinstated to its former condition when those operations have been carried out"

As such, the Inspector allowed the appeal on ground (c) and quashed the enforcement notice.

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