

# 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, 31 January 2018 at 2.15 pm

The next ordinary meeting of the Committee will take place on Wednesday, 28 February 2018 at 2.15 pm in the Phoenix Chamber, Phoenix House, Tiverton

#### **STEPHEN WALFORD**

Chief Executive  
23 January 2018

**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 DECLARATION OF INTERESTS UNDER THE CODE OF CONDUCT**

Councillors are reminded of the requirement to declare any interest, including the type of interest, and reason for that interest at each item.

#### **3 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.

4 **MINUTES OF THE PREVIOUS MEETING** *(Pages 5 - 12)*

Members to consider whether to approve the minutes as a correct record of the meeting held on 3 January 2018.

5 **CHAIRMAN'S ANNOUNCEMENTS**

To receive any announcements the Chairman may wish to make.

6 **ENFORCEMENT LIST** *(Pages 13 - 18)*

To consider the items contained in the Enforcement List.

7 **DEFERRALS FROM THE PLANS LIST**

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

8 **THE PLANS LIST** *(Pages 19 - 118)*

To consider the planning applications contained in the list.

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

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

10 **APPEAL DECISIONS** *(Pages 123 - 124)*

To receive for information a list of recent appeal decisions.

11 **PRE-APPLICATION PLANNING ADVICE SERVICE** *(Pages 125 - 132)*

To consider a report of the Head of Planning, Economy and Regeneration requesting consideration of revised arrangements for our customers to gain pre-application advice from the Planning Service in terms of fees for advice.

**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:

Tel: 01884 234229

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Public Wi-Fi is available in all meeting rooms.

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## MID DEVON DISTRICT COUNCIL

**MINUTES** of a **MEETING** of the **PLANNING COMMITTEE** held on 3 January 2018 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,  
J D Squire, R L Stanley and R Evans

### **Apologies**

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

R F Radford

### **Present**

#### **Officers:**

David Green (Group Manager for Development), Simon Trafford (Area Team Leader), Philip Langdon (Solicitor), Catherine Marlow (Conservation Officer), Daniel Rance (Principal Planning Officer), Adrian Devereaux (Principal Planning Officer) and Sally Gabriel (Member Services Manager)

## 93 **APOLOGIES AND SUBSTITUTE MEMBERS**

Apologies were received from Cllr R F Radford who was substituted by Cllr R Evans.

## 94 **PUBLIC QUESTION TIME**

Cllr Mrs Hicks (Bampton Town Council) referring to Enforcement Item 1 on the agenda (land at Ashleigh Park, Bampton) stated that: you have all the responses from Bampton to the current application for Ashleigh Park. This is yet another revised scheme for dwellings, I note, rather than bungalows.

The responses all include concerns regarding the huge spoil heap which has dominated peoples' lives since last spring. Its visual impact is immense and depressing. The concerns are genuine. We are not looking at a NIMBY situation regarding the development of the site. We are looking at concerns for the insensitive way in which the development is being undertaken. There is no confidence in the developer. Mr Clarke called on individual households and even phoned Mr Derek Webster our Flood Co-ordinator directly to influence the application believing that he was employed as an officer of MDDC or DCC.

The heap has been generated without consideration for residents and has blighted their lives all year. No-one can understand why spoil is mounded like this. At the time only four bungalows were proposed. We cannot see the justification for that amount of spoil being left. It is not clean topsoil which might be recommended as a capping to previously quarried ground. Its weight must be considerable. It has compacted over the months but still discharges large rocks as does the steep

embankment formed earlier at the verge of the Old Tiverton Road. There has been land slip here. Could it be that one is influencing the other? Original reports may not have taken the creation of a spoil heap and the height and angle of this slope into consideration.

The Town Council has formally registered concerns but we would also like to refer you to para 2.4 of the Hydro-geology section of the Geo-Environmental Assessment Report where the ground is referred to as a minor aquifer. This is emphasised in the final paragraph, 3.3.

Once upon a time Ashleigh Park was a quarry and a sump for water cascading from the high ground above. The site is high above the Town and there are historic drainage problems left by the same developer. The Council has had to supply and make arrangements to deploy a flood barrier to deflect water from the lower Ashleigh Park properties. It is therefore important that any water movement through this site does not increase the flood risk in the town below. There is imminent work by Highways to the drains in Briton Street to mitigate the current situation!

We ask that any planning application is suspended until the heap is removed and the implications of natural aquifer drainage on the disturbed ground of the site and through the steep embankment are examined by the EA. The improvement to the drainage in Briton St has been accomplished. Bampton Town Cllrs would be grateful for your cooperation in what is a serious matter for the town.

#### 95 **MINUTES OF THE PREVIOUS MEETING (00-07-06)**

The minutes of the meeting held on 29 November were approved as a correct record and signed by the Chairman.

#### 96 **CHAIRMAN'S ANNOUNCEMENTS (00-07-45)**

The Chairman had the following announcements to make:

- Naomi Morgan (Planning Assistant) had returned to the authority.
- Catherine Marlow (Conservation Officer) would be leaving the authority at the end of the month taking up the post of Inspector with Historic England, she thanked her for her hard work and wished her well for the future on behalf of the committee.

#### 97 **ENFORCEMENT LIST (00-09-03)**

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

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

Arising thereon:

- a) No. 1 in the Enforcement List (***Enforcement Case ENF/17/00076/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 and buildings at NGR 296197 122000, Ashleigh Park, Bampton.***)

The Area Team Leader outlined the contents of the report stating that the untidy site was having an adverse effect on the amenity of the area; the planning history of the site was contained within the report and the comments made by Bampton Town Council would be considered by the case officer. He highlighted the location of the site, the spoil heap adjacent to the road and photographs from various aspects of the site.

Consideration was given to:

- The history of the site
- How the spoil heap had been formed
- The work undertaken to create the heap
- The fact that the spoil heap was not underpinned and therefore the danger it could pose to passers-by

**RESOLVED** that the Legal Services Manager be given delegated authority 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.

(Proposed Cllr R L Stanley and seconded by Cllr B A Moore)

Notes:

- (i) Cllr Mrs F J Colthorpe declared a personal interest as County Councillor for the area who had been involved in highway matters;
- (ii) Cllr B A Moore and R L Stanley made declarations in accordance with the Protocol of Good Practice for Councillors in dealing with planning matters as they had been involved in discussions regarding the issue as Ward Members;
- (iii) Cllr Mrs Celia Hicks (Bampton Town Council) spoke.

b) No. 2 in the Enforcement List (***Enforcement Case ENF/16/00243/UDRU–Erection of two storey building in rear garden – 6 Forestry Houses, Chenson, Chulmleigh***).

The Area Team Leader outlined the contents of the report and the history of the site, an application to regularise the unauthorised development had been submitted in September 2017 and refused by Committee on 29 November, it was therefore necessary to commence enforcement action to secure the demolition and removal of the unauthorised building.

**RESOLVED** that the Legal Services Manager be given delegated authority to: take all such steps and action necessary to secure the demolition and removal of the unauthorised development, including the issue of an enforcement notice and prosecution and/or Direct Action in the event of non-compliance with the notice.

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

98 **DEFERRALS FROM THE PLANS LIST**

Members had previously been informed that Item 2 on the Plans List – land NE of Rydon House, Willand had been deferred because of administrative issues with the application.

99 **THE PLANS LIST (00-23-38)**

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 4 on the Plans *List (17/001700/FULL – Change of use of ground floor common room to a one bedroom flat, Common Room (Ground Floor of Flat 41), Broad Lane, Tiverton)* be approved subject to:

- a) An additional condition stating that the development permitted by this planning permission shall be carried out in accordance with the approved Flood Risk Assessment (FRA) dated 09 October 2017 and the Flood Prevention Measures detailed within the FRA, to include raising electrical circuitry. The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

**Reason**

To reduce the risk of flooding to the proposed development and future occupants.

- b) Conditions as recommended by the Head of Planning, Economy and Regeneration.

(Proposed by the Chairman)

Notes:

- (i) Cllr R L Stanley declared a personal interest as Cabinet Member for Housing and informed the meeting that he would abstain from voting;
- (ii) Cllr R J Dolley declared a personal interest as Ward Member as he had taken part in discussions regarding the application;
- (iii) Cllr Mrs F J Colthorpe declared a personal interest as the County Councillor for the area;

- (iv) Cllrs F W Letch and R L Stanley requested that their abstention from voting be recorded;
- (v) The following late information was available: The following planning condition is recommended in light of the response received from the Environment Agency which should be included within the recommendation made to approve.

**Condition**

The development permitted by this planning permission shall be carried out in accordance with the approved Flood Risk Assessment (FRA) dated 09 October 2017 and the Flood Prevention Measures detailed within the FRA, to include raising electrical circuitry. The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

**Reason**

To reduce the risk of flooding to the proposed development and future occupants.

Consultee Response to be included within Committee Report

**Environment Agency – 11th December 2017**

The proposed development will only meet the requirements of the National Planning Policy Framework if the following measure(s) as detailed in the Flood Risk Assessment submitted with this application are implemented and secured by way of a planning condition on any planning permission. Furthermore, the development must also provide a means of unobstructed access to the first floor of the building.

The applicant should demonstrate that this is achievable prior to determination of the application.

**Reason**

The building lies within an area at risk of flooding from the Cottey Brook. Indications are that potential depths of water in an extreme flood event would be shallow. Despite this we consider it important that access to the first floor is made available given the ground floor nature of the proposal and that flood mitigation measures are installed during refurbishment.

- (ii) No 5 on the Plans *List (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 – Old Bartows, Bartows Causeway, Tiverton.)* be approved subject to conditions as recommended by the Head of Planning, Economy and Regeneration.

(Proposed by the Chairman)

(b) No 1 on the Plans *List (17/01660/MOUT – Outline for the erection of 10 dwellings, - Land at NGR 287219 106314, Barnhill Close, Cheriton Fitzpaine).*

The Area Team Leader outlined the contents of the report by way of presentation highlighting the access proposed within the outline application, the site location plan, the additional gated access, the aerial view, the indicative layout of dwellings, the drainage strategy and photograph from various aspects of the site.

Consideration was given to:

- The density of dwellings on the site in line with policy COR 1
- Affordable housing on site which had been well received by the Parish Council
- The indicative layout of the site
- The involvement of the Parish Council and local residents in the application

**RESOLVED** that planning permission be granted subject to:

The prior signing of a S106 Agreement to secure:

- 30% affordable housing on site (3 units)
- A secondary school contribution of £5,377 towards school transport to Queen Elizabeth's Academy Trust
- A contribution of £8,425 towards the provision of off-site open space.

And 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 Mrs F J Colthorpe declared a personal interest as Ward Member;
- ii) Mr Upton (Agent) spoke;
- iii) Cllr Norton (Cheriton Fitzpaine Parish Council) spoke;

(c) No 2 on the Plans *List (17/0652/MOUT –Outline application for a mixed development of 30 dwellings, commercial buildings, access, public open space, landscaping and associated works – land at NGR 303116 110179 (NE Rydon House) Willand.*

This item had been deferred as previously advised.

(d) No 3 on the Plans *List (17/0924/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).*

The Principal Planning Officer outlined the contents of the report by way of presentation highlighting the site location plan, the redundant buildings on site at the present time, the proposals for the units, the existing and proposed elevations of each of the units and photographs from various aspects of the site. He informed the

meeting that he had had discussions with the Lead Officer for the Garden Village proposal and that she felt that the proposal would not have a negative impact on the project.

Consideration was given to:

- Parking Policy
- Continued management of the site
- Possible air quality contributions via S106 and Policy DM6
- Possible additional lighting in the area

**RESOLVED** that planning permission be granted subject to:

- a) The prior signing of a S106 Agreement (between the applicant and Devon County Council only) relating to a financial contribution of £10,000 towards improvements at J28 of the M5;
- b) Conditions as recommended by the Head of Planning, Economy and Regeneration with an amendment to Condition 17 so as to read: 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 and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of an approved detailed remediation scheme to bring the site to a condition suitable for the intended use, which is subject to the approval in writing of the Local Planning Authority. Reason remains the same
- c) Delegated authority be given to the Head of Planning, Economy and Regeneration to frame an additional condition relating to a management plan for the site.

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

#### 100 **MAJOR APPLICATIONS WITH NO DECISION (1 - 06-00)**

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

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

#### 101 **APPEAL DECISIONS (1-07-52)**

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

Discussion took place regarding the importance of the contents of the appeal decisions and that Members should be receiving this information in a complete format.

It was therefore:

**RESOLVED** that: the appeals list be NOTED and that in future all Members receive an electronic version of all appeal decisions in full and that the planning agenda pack contain only a list of appeal decisions received highlighting the application and the inspector's decision.

(Proposed by the Chairman).

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

(The meeting ended at 3.35 pm)

**CHAIRMAN**

# Agenda Item 6

## PLANNING COMMITTEE AGENDA – 31<sup>st</sup> January 2018

### Enforcement List

<u>Item No.</u>	Description
1.	17/00213/LB - Dilapidation of listed building in particular thatched roof at The Three Tuns, Exeter Road, Silverton, Exeter

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**Case No.** ENF/17/00213/LB

**Grid Ref:** 295502 102734

**Address:**

14 Exeter Road, Silverton, EX5 4HX (formerly The Three Tuns Public House)

**Reason for report:**

Urgent and appropriate repairs to the grade II listed building are required in order to preserve it and steps are also required to remedy the condition of the land which is adversely affecting the amenity of the area.

**Recommendation:**

That, in respect of the Grade II listed building on the site, the Group Manager for Legal Services and Monitoring Officer be given delegated authority to:

- 1 issue a Repairs Notice under Section 48 of the Planning (Listed Buildings and Conservation Areas) Act 1990 specifying the works reasonably necessary for the proper preservation of the building; and
- 2 take all such steps and action necessary to secure the improvement of the appearance of the building in order remedy the adverse impact it currently has on the amenity of the area, including the issue of a notice under Section 215 of the Town and Country Planning Act 1990 and subsequent prosecution and/or direct action in the event of non-compliance with the notice.

**Site Description:**

14 Exeter Road, Silverton, EX5 4HX (formerly The Three Tuns Public House)

**Site Plan:**



**Site History:**

01/02020/FULL	Erection of dwelling and alterations to access	PERMIT
84/01592/OUT	Outline for the erection of a dwelling	REFUSE
82/01322/FULL	Erection of kitchen extension	PERMIT
14/00150/LBC	Listed Building Consent for works within existing dining room and bedroom to provide additional letting rooms	PERMIT
14/01943/FULL	Erection of dwelling	PERMIT
16/00922/FULL	Erection of a dwelling	PERCON
16/01460/FULL	Erection of 2 dwellings and boundary walls following removal of block of five letting rooms, part of lavatory building and part of boundary wall (Revised Scheme)	PERCON
16/01461/LBC	Listed Building Consent for removal of block of five letting rooms, part of lavatory building and part of boundary wall (Revised Scheme)	PERCON
16/01927/FULL	Conversion of Inn to 1 dwelling and rebuilding of boundary wall following removal of a block of five letting rooms and storage and lavatory buildings (Revised Scheme)	PERMIT
16/01928/LBC	Listed Building Consent for the conversion of Inn to 1 dwelling and rebuilding of boundary wall following removal of block of five letting rooms and storage and lavatory buildings	PERCON

**Development Plan Policies:**

National Planning Policy Framework, paragraphs 126-141 (Conserving and Enhancing the Historic Environment)

Mid Devon Local Plan Part 1, Core Strategy (COR2 Local Distinctiveness)

Mid Devon Local Plan Part 3, Development Management Policies (DM31 Planning Enforcement)

**Background Information:**

14 Exeter Road, Silvertown is a grade II listed building. Listing provides statutory protection under the Planning (Listed Buildings and Conservation Areas) Act 1990. The building is a c. 16<sup>th</sup> century stone, cob and thatched building which was built as an inn with associated accommodation and forge. It lies in Silvertown conservation area and holds a prominent position in the street scene. When in good repair it makes a very positive contribution to the street scene and character of the conservation area. The adverse is also the case – when in a poor condition such as it currently is, it has a negative impact on character and appearance. The building has been in use as a public house until 2016 when it gained planning permission for a change of use to a single dwelling. It is currently occupied by the owner. Prior to this it had been closed as a public house for approximately 18 months. The land immediately to the rear of the pub has also gained planning permission for the erection of two new dwellings which are currently under construction.

The listed building's thatched roof has been deteriorating over the past several years. The thatch covers an original timber roof structure which has been altered and added to over time but which contributes to the special interest of the building. This original timber roof is being damaged by rain water which is now penetrating through the thatch. Rainwater is coming into the first floor accommodation of the house in several places and is also being channelled off the roof and down the façade of the building onto the windows and the render. Loose thatching material is being blown from the roof and onto the surrounding public highway. A tarpaulin that previously covered part of the roof and kept some rainwater out of the building has been blown off the roof and remnants of this are still visible.

Despite repeated discussions with the owner about the need for works to repair the roof and carry out rethatching (either patch repairs or more comprehensive rethatching) these have not been forthcoming. Interim measures of attaching a new tarpaulin to the roof have also not been carried out. The condition of the roof continues to deteriorate putting the condition of the listed building at risk and also causing harm to the character and appearance of the conservation area and adversely affecting the visual amenity of this part of the village.

The building and land were for sale as a public house prior to its conversion but did not sell. The owner has indicated that he may put the house on the market in 2018. However, in the meantime the building continues to decline, causing harm to the fabric of the building and the visual amenity and character of the area.

A Repairs Notice requires that reasonable steps are taken to ensure the preservation of a listed building. The notice identifies, in a prescribed list, those works considered necessary to achieve that aim. Non-compliance with a Repairs Notice can lead to a Council beginning Compulsory Purchase Procedures under section 47 of the Planning (Listed Buildings and Conservation Areas) Act 1990 with associated compensation to the owners, however this report does not request such action at this stage. A Repairs Notice appears on a land registry search for the property and must be complied with by the owner, even if that owner changes during the time period of compliance. In this instance a Repairs Notice would ensure the preservation of the listed building's fabric through repairs.

A Section 215 Notice requires action to be taken to improve land adversely affecting the amenity of the area through tidying of land or buildings. If the notice is not complied with the Council can undertake works in default and recharge the owner(s) of the land and/or prosecute. A Section 215 Notice appears on a land registry search for the property and must be complied with by the owner, even if that owner changes during the time period of compliance. In this instance a Section 215 Notice would prevent the adverse impact on the amenity of the area through ensuring loose thatching straw did not escape from the roof onto the public highway, and that the visual appearance of the building is improved through repairs and redecoration of the windows and render where rainwater has caused damage and staining.

**Options for action or remedy:**

The list of options available is as follows:

Serve a Repairs Notice under section 48 of the Planning (Listed Buildings and Conservation Areas) Act 1990 on the owners of the building in order to prescribe a list of those works deemed reasonably necessary for the proper preservation of the listed building. These works could include the repair of the internal structure of the roof where necessary, the rethatching of the whole building and the making good of any damage caused to the building by rainwater.

Serve a Section 215 Notice under the Planning Act 1990 on the owners of the building in order to prescribe a list of those works deemed reasonably necessary to resolve the

adverse effect on the amenity of the area. These works could include the immediate addition of a tarpaulin cover to the thatched roof to prevent further thatching material being blown off the roof onto nearby land.

Serve both of the above notices in order to resolve the longer term repairs deemed necessary and reasonable for the preservation of the listed building, and also to ensure the shorter term aims of addressing the adverse impact on the amenity of the area caused by the appearance of the building and the escape of loose thatch onto the road.

Do nothing

**Advice to committee**

It is recommended that option 3 is approved as the best method of achieving both longer term repairs to the interior and exterior of the listed building, and also shorter term immediate action to mitigate the adverse impact on the amenity of the area (through the escape of straw onto the public highway and visual impact of a dilapidated building). It is therefore further requested that should the Section 215 notice not be complied with, that works in default (the erection of a tarpaulin cover to the entirety of the thatched roof) are carried out by the Council and a suitable recharge is made to the owners of the building. Also, that if that recharge is not paid, that a charge be made against the land charge register relating to the building which will allow future collection of the money owed on the sale of the property. The sum that can be reclaimed includes the original monies, plus interest calculated at base rate.

## PLANNING COMMITTEE AGENDA - 31st January 2018

### Applications of a non-delegated nature

<u>Item No.</u>	Description
1.	<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><b>RECOMMENDATION</b> Grant permission subject to conditions and the signing of a S106 agreement</p>
2.	<p>17/01991/FULL - Installation of access ramp and change of one window at ground floor level to patio doors at 114 &amp; 115 St Andrews Estate, Cullompton, Devon.</p> <p><b>RECOMMENDATION</b> Grant permission subject to conditions.</p>
3.	<p>17/01453/FULL - Erection of a dwelling (100sqm) including camp site reception facilities (58sqm) at Kingsmead Centre, Clayhidon, Devon.</p> <p><b>RECOMMENDATION</b> Refuse permission.</p>
4.	<p>17/01504/FULL - Erection of a dwelling and construction of new vehicular access following demolition of skittle alley, garage and store at Land and Buildings at Mare &amp; Foal, The Village, Yeoford.</p> <p><b>RECOMMENDATION</b> Refuse permission.</p>
5.	<p>17/01517/FULL - Erection of a dwelling and alterations to existing vehicular access at 27 Downeshead Lane, Crediton, Devon.</p> <p><b>RECOMMENDATION</b> Refuse permission.</p>
6.	<p>17/01732/FULL - Installation of a ground-mounted adjustable frame consisting of 110 solar photovoltaic panels at Land at NGR 270036 111582 (Southcott Farm), Chawleigh, Devon.</p> <p><b>RECOMMENDATION</b> Grant permission subject to conditions.</p>
7.	<p>17/00057/FULL - Conversion of outbuildings to form 2 dwellings at The Elms, Willand Old Village, Willand.</p> <p><b>RECOMMENDATION</b> Grant permission subject to conditions and the signing of S106 agreement</p>
8.	<p>17/01726/FULL - Conversion of an existing workshop/barn to form a dwelling at 72 Bampton Street, Tiverton, Devon.</p> <p><b>RECOMMENDATION</b> Refuse permission.</p>



Plans List No. 1

Application No. 17/00652/MOUT

Grid Ref: 303116 : 110179

Applicant: Mr Wheatley

Location: Land at NGR 303116 110179 (NE of Rydon House)  
Willand  
Devon

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

Date Valid: 24th April 2017



## **APPLICATION NO: 17/00652/MOUT**

### **RECOMMENDATION**

Subject to the prior to the 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 5<sup>th</sup> Market dwelling

Grant Planning Permission subject to conditions

### **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

## **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

**ENVIRONMENTAL HEALTH - 2nd May 2017**

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 zone1, 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 W11 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 of loss is associated with the petrol station and car sales and is 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 an ecological management plan based on the recommendations for ecological mitigation and enhancement contained in the submitted Ecological Appraisal by Ecological Surveys Ltd., dated August 2016, 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.

### 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**

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**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.
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### 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 landscape<sup>1</sup>. 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

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<sup>1</sup> 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 decision<sup>2</sup> (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

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<sup>2</sup> 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 work<sup>3</sup> 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 evidence<sup>4</sup> 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.

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<sup>3</sup> 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).

<sup>4</sup> 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 David's 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



**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

The Human Rights Act 1998 came into force on 2<sup>nd</sup> 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. 17/01991/FULL

Grid Ref: 301956 : 107501

Applicant: Mr P Hyde, MDDC

Location: 114 & 115 St Andrews Estate  
Cullompton  
Devon  
EX15 1HZ

Proposal: Installation of access ramp and change of one window at ground floor level to patio doors

Date Valid: 13th December 2017



**APPLICATION NO: 17/01991/FULL**

## **RECOMMENDATION**

Grant permission subject to conditions

## **PROPOSED DEVELOPMENT**

This application seeks planning consent for the installation of access ramp and change of one window at ground floor level to patio doors.

The existing property is a two storey terraced property which currently forms part of Mid Devon District Council's housing stock. The property subject to this application is an end of terrace property which was formerly used as two flats (one at ground floor level and one at first floor level).

In 2016 a certificate of lawfulness was granted which confirmed that in the opinion of the Local Planning Authority, no material change of use would take place in the conversion of the two flats to one dwelling. The current application now seeks permission install an external access ramp and to change one ground floor window to a set of patio doors.

As a change of use has not taken place there are no permitted development rights for this work hence why an application has been submitted.

## **APPLICANT'S SUPPORTING INFORMATION**

Site location plan, existing and proposed floor and elevation plans, wildlife survey.

## **RELEVANT PLANNING HISTORY**

**06/01567/FULL** - PERMIT date 19th October 2006

Retention of change of use from dwelling (Class C3) to an office (Class B1)

**11/00539/FULL** - PERMIT date 2nd June 2011

Change of use from office (B1a use class) to dwelling (C3)

**15/01801/FULL** - WITHDRAWN date 17th December 2015

Conversion of 2 flats to form 1 dwelling

**16/00163/CLP** - PERMIT date 18th March 2016

Certificate of lawfulness for the proposed conversion of 2 dwellings to form 1 dwelling

## **DEVELOPMENT PLAN POLICIES**

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

COR14 – Cullompton

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

DM2 – High Quality Design

DM13 – Residential extensions and ancillary development

## **CONSULTATIONS**

Highway Authority - 21st December 2017 - No comments

Cullompton Town Council - 22nd December 2017 - Recommend grant permission.

## **REPRESENTATIONS**

No letters of representation received at the time of writing the report (05/01/18).

## **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

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

- 1. The principle of development on the site**
- 2. Design and appearance of the proposal**
- 3. Impact on neighbouring properties**

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

The site lies within the settlement of Cullompton where policy COR14 of the Mid Devon Core Strategy (Local Plan Part 1) supports the principle of residential extensions and ancillary alterations.

Policies DM2 and DM13 of the Mid Devon Development Management Policies (Local Plan Part 3) further support residential extensions and ancillary development.

### **2. Design and appearance of the proposal**

The proposed change from one ground floor window on the north west (rear) elevation to patio doors is considered to be acceptable. The property does not have any particular architectural features of merit and while the patio doors would be larger in height than the existing window, would be inkeeping with the appearance of the existing property. The existing window opening would not be enlarged width ways to accommodate the new patio doors. The materials proposed for the new patio doors will be white upvc to match the existing.

The proposed access ramp is to be constructed in a concrete finish to match the existing paths in the area. The ramp is proposed to slope up around the side of the property to the front door of the property at a height of 0.4 metres above ground level. Railings are proposed for safety reasons and will be constructed as a metal tubular handrail 42.4mm diameter with 90 degree formed ends.

### **3. Impact on neighbouring properties**

It is not considered that the proposed change from window to patio doors on the north west elevation and installation of access ramp down the side of the property to the front access door will affect any neighbouring properties. The design and appearance of the proposal is inkeeping with the existing property and would not be overbearing on any neighbouring properties.

## **CONDITIONS**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

2. The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice.

#### **REASONS FOR CONDITIONS**

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

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

The proposed development in terms of the installation of an access ramp and change from ground floor window to patio doors is considered to be acceptable. The proposal will not have a negative impact on the appearance of the dwelling or surrounding area, nor adversely affect the privacy or amenities of any neighbouring occupiers. The proposal is considered to comply with the requirements of relevant policies: COR14 of the Mid Devon Core Strategy (Local Plan Part 1), DM2 and DM13 of the Mid Devon Development Management Policies (Local Plan Part 3) and the National Planning Policy Framework.

The Human Rights Act 1998 came into force on 2<sup>nd</sup> 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. 17/01453/FULL

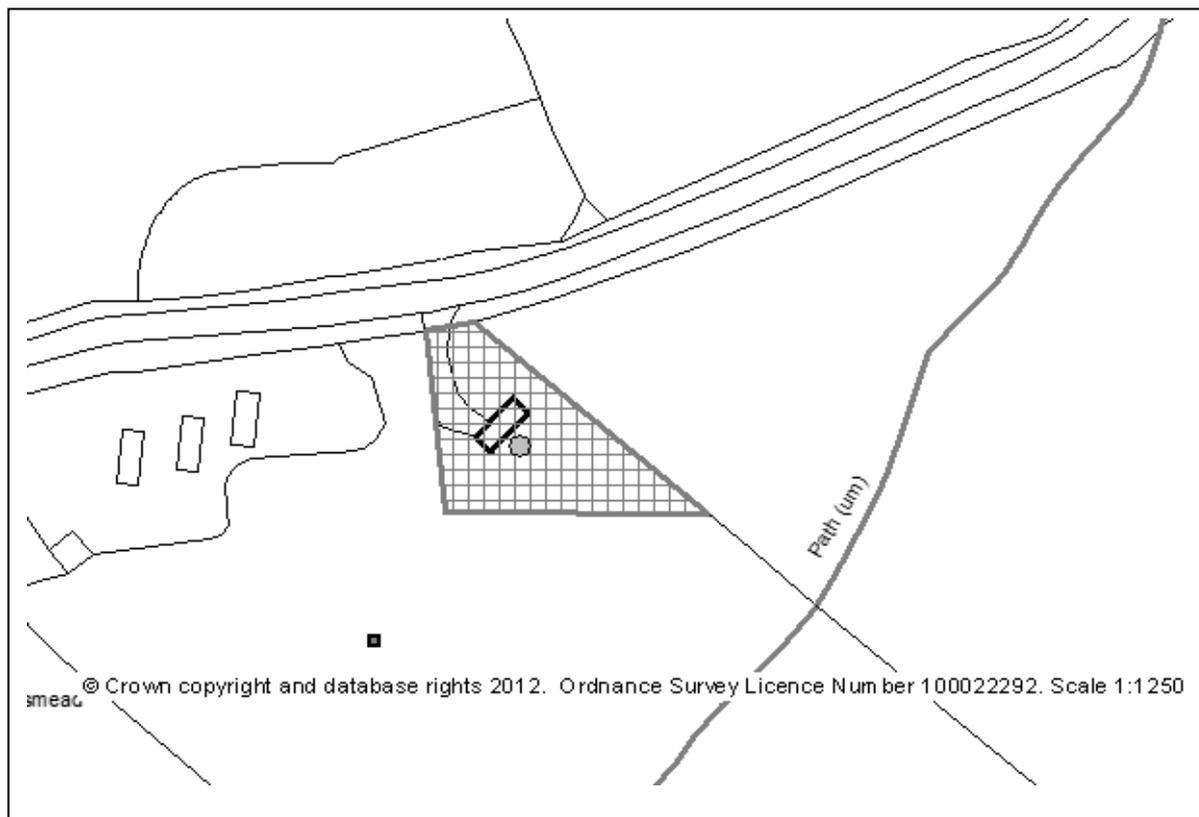
Grid Ref: 318008 : 116800

Applicant: Mr T Purvis

Location: Kingsmead Centre  
Clayhidon  
Devon  
EX15 3TR

Proposal: Erection of a dwelling (100sqm) including camp site reception facilities (29sqm)

Date Valid: 19th September 2017



**APPLICATION NO: 17/01453/FULL**

**MEMBER CALL-IN**

**Cllr Frank Rosamond has requested that the application be called in for determination by planning committee to consider whether:**

**the proposal would sustain an ongoing rural business and protect local economic activity**

**RECOMMENDATION**

Refuse permission

**PROPOSED DEVELOPMENT**

The proposal is for the erection of a dwelling (100sqm inclusive of integrated balcony) including camp site reception facilities including a shop (29sqm) covered and uncovered balcony area and integrated double garage, along with a garden area associated with the dwelling

The foot print size of the building including the covered balcony area is 100sqm and over two floors equates to 200sqm.

**APPLICANT'S SUPPORTING INFORMATION**

Plans  
Application Form  
Design & Access Statement

**RELEVANT PLANNING HISTORY**

**02/00345/FULL** - PERMIT date 28th May 2002

Continued use of land for the siting of six static caravans on a permanent basis

**02/00883/CLU** - PERMIT date 22nd April 2003

Retention of use of land for touring, camping, winter storage and lakeside camping together with a caravan overflow area

**85/01676/FULL** - PERMIT date 10th February 1986

Use of land for siting six static caravans (in connection with educational field centre)

**90/02357/FULL** - PERMIT date 10th April 1991

Siting of six static caravans for use as Educational Field Centre and Activity Holiday Centre

**91/01854/OUT** - REFUSE date 19th February 1992

Outline for the erection of six units of accommodation (in lieu of existing static caravans) to serve Educational Field Centre and Holiday Activity Centre

**96/00276/FULL** - REFUSE date 10th June 1996

Retention of use of land for the siting of six static caravans for use as Educational Field Centre and Activity Holiday Centre

**98/00670/FULL** - WD date 22nd October 1998

Continued use of land for the siting of six static caravans and outline for the provision of office, reception, showers, classroom, drying room and warden's accommodation

**80/01683/OUT** - REFUSE date 28th January 1981

Outline for the erection of 5 prefabricated units of residential accommodation for use either in connection with an educational field centre or summer holiday occupation

**81/00138/OUT** - REFUSE date 20th March 1981

Outline for the erection of 5 residential log cabins for educational field course

**09/01563/FULL** - PERMIT date 15th January 2010

Erection of amenity/shower block

**13/00905/FULL** - PERMIT date 16th August 2013

Erection of amenity/shower block (Revised scheme)

**17/01453/FULL** - PDE date

Erection of a dwelling (100sqm) including camp site reception facilities (58sqm)

## **DEVELOPMENT PLAN POLICIES**

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

COR1, Sustainable Communities

COR2, Local Distinctiveness

COR18 Countryside

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

Policy AL/IN/3 Public Open Space

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

DM1, Presumption in favour of sustainable development

DM2, High quality design

DM3, Sustainable design

DM8, Parking

DM10, Rural workers dwelling

DM14, Design of housing

DM15, Dwelling sizes

DM19, Rural shopping

DM29, Protected landscapes

## **CONSULTATIONS**

### **BLACKDOWN HILLS AONB PARTNERSHIP** - 12th October 2017

The AONB Partnership supports its local planning authorities in the application of national and local planning policy in order to ensure that any development in the AONB conserves and enhances the natural beauty of this nationally designated landscape. In support of this, the Blackdown Hills AONB Management Plan 2014-19 is the agreed policy framework for conserving and enhancing the AONB and seeks to ensure that all development affecting the AONB is of the highest quality. It contains the following policies considered to be particularly pertinent to this proposal:

PD 1/B Seek to ensure that any necessary new developments or conversions within the AONB or

affecting its setting conserve and enhance natural beauty and special qualities, particularly by respecting the area's landscape character and the local character of the built environment, reinforce local distinctiveness and seek to enhance biodiversity.

RET 1/C Support the development of sustainable tourism activities within the AONB that are compatible with conserving and enhancing natural beauty and the special qualities of the AONB, increase understanding and appreciation of the Blackdown Hills and benefit the local economy.

Given the siting within the existing camp site the proposal is considered to be of limited significance in terms of impact on the AONB. Nonetheless, matters such as materials, colour, external lighting and vegetation clearance/planting remain important considerations in respect of the above policies.

**ENVIRONMENTAL HEALTH** - 6th 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 - No comment

Food Hygiene - No objection to this proposal. Informative: If food or drink is sold in the shop this will require registration with the Environmental Health department by completing a registration form. We are also able to provide advice and information on requirements including structural layout.

Private Water Supplies - Informative note: if a private water supply is to be used a risk assessment and sampling regime may be necessary. Contact Public Health at [health@middevon.gov.uk](mailto:health@middevon.gov.uk) for further advice

Health and Safety - No objection to this proposal.

**Highway Authority** - 2nd October 2017 - Standing advice applies please see Devon County Council document <http://www.devon.gov.uk/highways-standingadvice.pdf>

**CLAYHIDON PARISH COUNCIL** - 12th October 2017

The council met on 9th October to consider the above planning application.

It supports the application as long as the planning officer can validate the ownership of the existing dwelling on the site and if the business is proven to be financially sustainable.

If you require any further information, please contact me.

## **REPRESENTATIONS**

There have been 15 letters of support for the proposal and one of objection. The main points are set out below.

Those in support

1. The site is well run
2. Provides a source of seasonal employment
3. The shop will be good for the area
4. Diverse option for campers
5. The onsite reception and dwelling will enhance the experience
6. Having owners on site is a huge benefit to the business
7. The local public houses benefit from the summer campers
8. Will make the site safer
9. There is a need for proprietors to be onsite during the use of Barbecues, and for medical emergencies and prevention of burglary.

10. It is compliant with the NPPF
11. To refuse will put the business in jeopardy
12. No suitable alternative accommodation

Objector's comments

13. The need for security is not sufficient grounds for granting consent
14. Campsite empty from end of September until Easter, caravans are closed down, with only a few school children and winter campers
15. Only busy for short periods during the year
16. The existing dwelling rooms are let

**MATERIAL CONSIDERATIONS AND OBSERVATIONS**

The main issues in the determination of this application are:

- 1 Background History to the Site
- 2 Rural Workers Dwelling and justification criteria
- 3 Highways
- 4 AONB Policies and character and appearance
- 5 Other Issues

**1 Background History to the Site**

The land has been owned by the Purvis family for a number of years. According to the Design and Access statement Mr Purvis Senior established the first part of the campsite in 1976 adjacent to the presently utilised dwelling called Kingsmead.

The business is an established holiday site with 4 mobile caravan units along with a Yurt, Showmans van and a lily pad tent. There is a fishing lake and site for pitching tents and siting caravans and mobile homes.

The land encompasses an area of approximately 3.5 hectares with an additional overflow area of land located to the east and separate to the main site. The overflow area was granted consent under the 02/00883/CLU and provides an additional area of .55 hectare.

The business has been undertaken on parts of the land since 1976. In 2002 a planning application was submitted for the retention of six static caravans on a permanent basis, this was granted consent, and then in 2009 a planning application was submitted for the erection of amenity/shower block, this was approved with conditions.

The site has been managed during that time from the associated dwelling known as "Kingsmead". The applicant argues that there is a requirement for the dwelling as the site requires full time monitoring, and that the existing dwelling Kingsmead will be no-longer available to them.

**2 Rural Workers Dwelling and justification criteria**

The site is located within the open countryside where COR18 seeks to protect the open countryside from inappropriate development..

Whilst national policy encourages economic growth in the countryside, it is clear the NPPF as a whole that this is not to be achieved irrespective of any environmental cost. Paragraph 28 of the NPPF gives support to economic growth in rural areas in order to create jobs and prosperity and recognise the intrinsic character and beauty of the countryside.

The proliferation of dwellings in attractive landscapes such as the AONB, would, if unchecked, result in visual harm. The NPPF (Paragraph 55) also states that new, isolated homes in the countryside should be avoided, unless there are special circumstances, one of which is the essential need for a rural worker to live permanently at or near their place of work.

This forms the basis of the applicant's case.

The NPPF requires a convincing case for essential need to be made, which is not for convenience.

Although the tests in PPS7 Annex A no longer have weight of Government policy, they remain, in the council's view, appropriate for assessing whether an essential need can be demonstrated. Various appeal decisions made since the NPPF was published suggest that the PPS7 tests could be considered an appropriate format for assessing whether an essential need can be demonstrated in conjunction with Policy DM10.

This is reflected in Policy COR18 of the Mid Devon Core Strategy 2007 and DM10 of the Development Management policies which both allow for agricultural/forestry/rural workers dwellings in the open countryside where, an essential need has been shown, along with other intrinsic policy requirements.

In relation to the proposed rural workers dwelling and assessing against the criteria set out in Annex A below;

- (i) There is a clearly established existing functional need
- (ii) The need relates to a full time worker, or one which is primarily employed on the site and is not a part-time requirement.
- (iii) The unit and activity concerned have been established for at-least three years, have been profitable for at-least one of them, are currently financially sound, and have a clear prospect of remaining so.
- (iv) The functional need could not be fulfilled by another existing dwelling on the unit, or any other existing accommodation in the area which is suitable and available for occupation by the workers concerned; and
- (v) Other planning requirements, e.g. in relation to access, or impact on the countryside, are satisfied.

The Authority are of the view that section (iii) in that the business has been established for more than three years and has been profitable for at least one year, although indications are that the business is growing the profit returns are marginal, although the last year is claimed to be substantial although no formal accounts have been provided for this claim. The Authority is minded, on balance, to consider the proposed meets this element of the criteria albeit minimal. In that the proposed is financially sound and a clear prospect of remaining so is also unclear, but the Authority are of the view this is acceptable.

With regard to the other parts relating to the proposed it is considered that the other sections (i) established existing functional need (ii) need relates to a full time worker (iv) functional need could not be fulfilled by another existing dwelling on the unit, or any other existing accommodation in the area, and (v) other planning matters are not met.

The application was accompanied by supporting documentation but it does not purport to be an appraisal which justifies the proposed rural dwelling. Using this information the Council have

assessed the proposal against the criteria outlined above.

It is disputed firstly that there is an actual need for a worker to reside on site, the fundamental argument put forward is that there is a need to be on site at all times for;

- 1 Logistics for the business
- 2 Campsite open all year with the caravans offering accommodation into the Autumn months
- 3 Greet Customers
- 4 Twice Daily Cleaning of Shower and toilet facilities
- 5 Answer queries of customers
- 6 Undertake ad hoc repairs and drain cleaning
- 7 Enforce the site rules
- 8 Deal with emergency situations, water and gas leaks or visitors becoming ill.
- 9 Security due to the foot path running through the site.
- 10 The uses of open fires and check they are operated appropriately.

Although there are a number of items raised and set out above there are no requirements associated with any to be on site to monitor on a 24/7 basis.

All the above can be dealt with by the owners of the site from accommodation located away and separated from the business. The owners could travel to the site each morning and leave later in the day as and when required. The majority of visitors will arrive at reasonable times with only a few being later in the day. This can be dealt with by a remote access communication system linked to telephones. The rules and regulations that need to be adhered to should be made clear to the visitors on arrival.

Although the site has the ability to operate all year, when the booking system was interrogated on their own website the autumn and winter months were not available for booking, indicating that the operation is mainly undertaken within the holiday seasons, which further raises concern as to the essential need for a full time worker residing on site all year round.

The general maintenance, answering customer queries, enforcing site rules, dealing with emergencies/open fires, cleaning regime and security do not warrant or need their to be a full time presence on site.

All these matters are general day to day management of the site which can be operated by the applicants or employees travelling to the site to work with late evening issues which may arise dealt with by telephone or on a shift work pattern if truly necessary.

Clearly it would be more convenient for the owner to live adjacent to or within the site so that they could monitor the situation shortly before retiring in the evening, and again early in the morning. Nevertheless, it is not essential to live there for that purpose.

Wellington is located to the north of the site some 5 miles to its centre (High Street), where there is a significant property market providing both properties to purchase and to rent. There are a number of 2 bed flats and apartment to purchase under the £120,000 which has been put forward as an amount available to spend on the new property. In addition there are plenty of rentable properties. Time to the site would be between 12 and 15 minutes depending on route and time of day (According to Google Maps). Clayhidon is 5 minutes and 2 mile distant, although it is unlikely that there is an available stock of housing either for rent or purchase within the applicant's price range.

It is understood that the property (Kingsmead) where the applicants presently reside will no-

longer be available to them. The reasons for this are confidential and Committee Members are able to contact the Planning Officer to obtain the reason for the unavailability of the property prior to the Committee meeting.

## **2. Highways**

There is to be no change to the existing access to and from the site, it is considered that the access is appropriate and capable of providing appropriate access to the proposed new dwelling/reception/shop and the site.

## **3. AONB Policies and character and appearance**

The AONB policies follow on from the NPPF and in particular Paragraph 115 which states that Great weight should be given to conserving landscape and scenic beauty which have the highest status of protection in relation to landscape and scenic beauty. DM29 states that proposals for development in the AONB must conserve or enhance the cultural heritage and character and appearance of the AONB

The AONB have commented on the proposal and are of the view that given the siting within the camp site the proposal will have limited impact on the on the AONB but that consideration should be made to materials lighting clearance and planting are important considerations. The AONB management Plan Policies are wide ranging and cover a number of areas including the built form Policies PD1/B RET1/C are the two main policies associated with new development along with the design guide for houses.

The proposed will be visible from the highway but unlikely to have any wider impacts provided the existing vegetation is retained

The AONB design guide for new dwellings clearly establishes the need to incorporate good detailing, appropriate materials and sensitive treatment of the spaces around buildings, to achieve a successful and sympathetic scheme. The location of development should follow the traditional settlement pattern the integrity of settlement form. The building form and materials should reflect the local traditions; there should be sensitive design of the spaces around buildings to preserve local character. Contemporary design if proposed should draw on the qualities of landscape, historic features and buildings to reinforce local distinctiveness.

The proposed unit is a large two storey dwelling of relatively modern design incorporating on the ground floor a reception area/shop double garage utility room (domestic use only) entrance hall and two access point/doorways to serve the private dwelling and the reception adjacent to each other. To the first floor is sitting room and open plan kitchen/dinner, with two bedrooms and a bathroom. There are two balcony areas; one located to the side of the property the other to the front.

The design of the proposed dwelling does not capture the essence of a traditional dwelling within the AONB. The overall footprint of the building including the extended balcony is 17m (56 feet) x 6.64m (22 feet) the main building width is 6.64m (22 feet) therefore the footprint is 112.88sqm or 1200sqfeet with a total area on both floors including balcony is 225.8sqm or 2430sqfeet. Although the actual habitable space is less the overall appearance of the proposed is a large domestic style dwelling within the open countryside.

The applicant has argued that there is a requirement for the balcony as there is to be no intention of having a garden, although the application clearly shows a garden area for the dwelling. The

balcony is also to be able to provide private space and the ability to watch the site. Policy DM10 part c) clearly states that the size and scale of the rural workers dwelling will be commensurate with the scale of operation and designed to reflect the location and setting of the proposed site. The building will appear as a large timber clad and part brick detached house with little relevance to the surrounding area and AONB. The nearby dwellings are either single storey or 1.5 storeys with rooms in the roof. The property based on the details submitted has a ridge height of 6.9m

The materials proposed, its design and scale do not provide a building which will sit comfortably within the AONB, and does not demonstrate the guidelines set out in the Blackdown Hills Design guide for dwellings within the AONB and is considered to be contrary to DM29.

#### **4. Other Issues**

##### **a) Shop/ Reception**

There have been no specific details as to the provision and scale of the proposed shop, how this will operate and who it will be available to. The provision of retail outlets in the countryside have to be carefully controlled to ensure the appropriate unit is operating within the best location.

If there is to be a retail outlet it would need to be conditioned to ensure it is for the use of onsite clients only and not as a general store within an isolated rural area, with the added potential highway issues this would be likely to occur. In addition any retail outlet needs to strictly control the products it will provide to ensure local businesses are not adversely impacted by the unit.

There has been insufficient information supplied as to the nature and scale of the proposed to be able to consider this activity on site and so this element of the application is not compliant with policy DM 19 Rural Shopping.

The reception area/shop is a good sized area covering 29sqm (312sqfeet) presently there is no onsite reception area. It is considered appropriate to provide such a facility for the use of the site, although there is no specific justification put forward for the size of the proposed reception, this needs clarification as to how the area will be fully utilised for and how it will be laid out.

However the use of the reception as part shop could be conditioned to ensure goods are only sold and available to persons who are staying on the site and for the use of people who are visiting for fishing on site only.

##### **b) Sustainability**

In the absence of an essential need for the proposed dwelling, the Council believes that it would represent an unsustainable form of development in the open countryside. Kingsmead centre is remote from shops, schools, doctors' surgeries and similar facilities. The nearest centres with such services are Wellington and Hemyock. There are no public transport facilities close to the site, and so future occupants will rely on the car for their day to day journeys.

For that reason the proposal conflicts with the principles of sustainable development, contrary to the aims of local and national planning policy.

Paragraph 28 of the NPPF supports the sustainable growth and expansion of rural business. However there is insufficient evidence that the continued viability or growth of Kingsmead Centre is dependent on the proposed development.

## REASONS FOR REFUSAL

1 The proposal is for a live work unit for the operators of Kingsmead Centre. The applicant has not demonstrated that the proposed new rural workers dwelling in this location is justified by reason of essential need. The site is outside settlement limits in an unsustainable location and its development would be contrary to the Council's aims to promote sustainability having regard to policy COR1 of the Mid Devon Core Strategy and in accordance with the criteria identified by policy DM10 of the Local Plan Part 3. The Proposal is therefore, contrary to criteria a), b) and c) of policy DM10, COR1 and criteria a) of policy COR18 of the Mid Devon Core Strategy and Paragraph 55 of the NPPF which states that isolated homes in the countryside should be avoided.

2 The proposed design/size mass and scale of the dwelling is considered to be inappropriate for the rural location and in particular the Blackdown Hills Area of Outstanding Natural Beauty (AONB). The design of the proposed is considered not to respect the local vernacular of the area and in particular the AONB. The introduction of balconies does not provide an area which is essential for occupation of the building as a rural workers dwelling and increases the mass and size of the building. Dwellings within the AONB should have a functional simplicity, built from locally available materials, with the most characteristic of the area being chert stone. The proposed is therefore in conflict with DM2 and DM29 of the local plan part 3 and policy PD1/B of the AONB Management Plan.

3 Policy AL/IN/3 requires that new residential proposals will contribute to the provision of public open space of at least 60sqm of equipped and landscaped public open space per market dwelling, within the local area. In this case there is a requirement for the provision of £1166 to be provided towards Improvements, including lighting and re-surfacing of tennis courts at Longmead Sports Pavillion, Hemyock. To date, no arrangements have been made by the applicant to secure the provision of this contribution. The proposed is therefore contrary to policy AL/IN/3 of the adopted Allocations and Infrastructure Development Plan Document.

The Human Rights Act 1998 came into force on 2<sup>nd</sup> 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. 17/01504/FULL

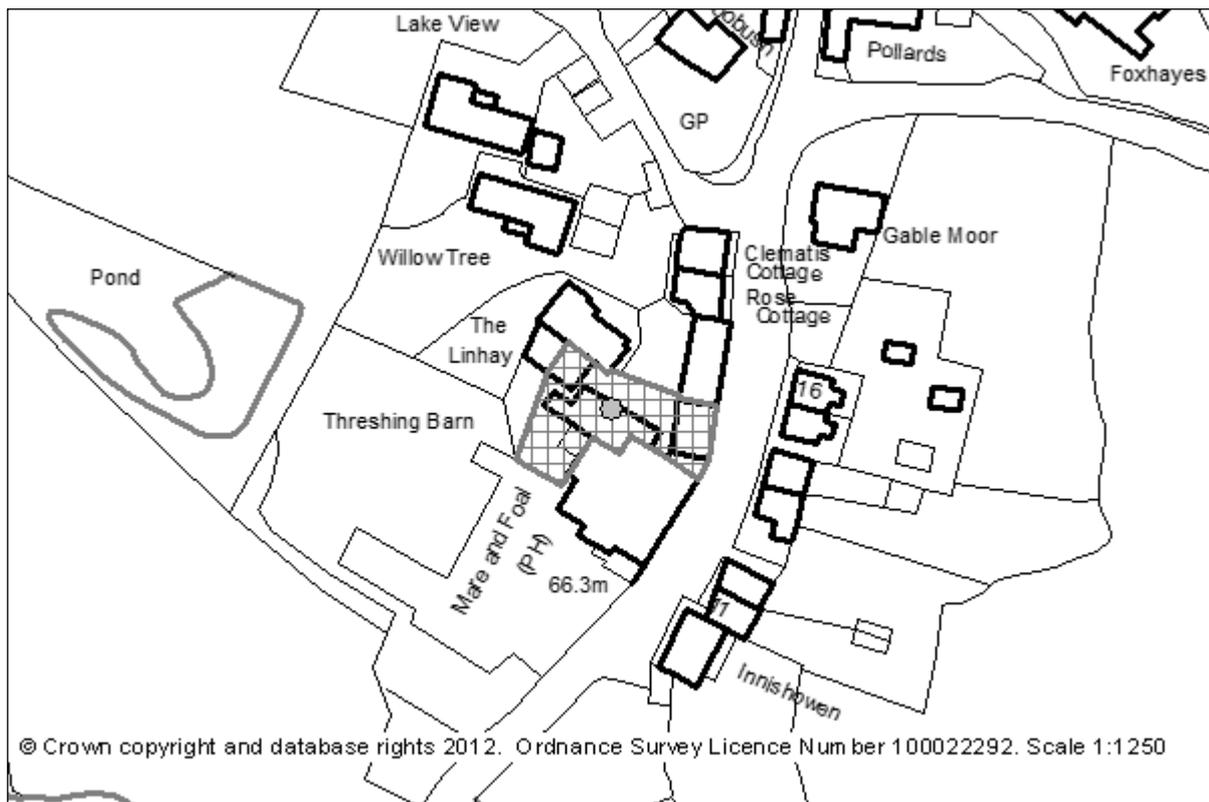
Grid Ref: 278382 : 99050

Applicant: Mr T Sawtell C/O Mr N Cant Planning

Location: Land and Buildings at Mare & Foal  
The Village  
Yeoford  
Crediton

Proposal: Erection of a dwelling and construction of new vehicular access following demolition of skittle alley, garage and store

Date Valid: 21st September 2017



## **APPLICATION NO: 17/01504/FULL**

### **RECOMMENDATION**

Refuse permission for the following reasons

1. In the opinion of the Local Planning Authority, it is considered that the proposal to allow the change of use of part of the pub (and its associated curtilage) to a dwelling would be likely to be detrimental to the ongoing viability and future use of the site a public house. Overall the proposal is deemed to be contrary to policies DM1 and DM25 of the Local Plan Part 3 (Development Management Policies) and the National Planning Policy Framework.
2. In the opinion of the local planning authority, taking into account the site location and the local constraints that are imposed given the site location is part of a pub building/curtilage it is not considered that the application delivers an opportunity to create a high quality residential environment. On this basis the proposal is deemed to be contrary to policies DM2 and DM14 of the Local Plan Part 3 (Development Management Policies) and the National Planning Policy Framework.
3. The application proposals do not include a contribution towards the provision of open space. The development is therefore contrary to Policy AL/IN/3 of the Allocations and Infrastructure Development Plan Document (Local Plan Part 2), and Supplementary Planning Document: The provision and Funding of Open Space Through Development (May 2008).
4. The application proposals do not include a contribution towards the implementation of the Council's Air Quality Action Plan and therefore does not mitigate the impact of the proposal upon air quality. The development is therefore contrary to Policy AL/CRE/8 of the Allocations and Infrastructure Development Plan Document (Local Plan Part 2), and Supplementary Planning Document on Air Quality and development (May 2008).

### **PROPOSED DEVELOPMENT**

The application is described as follows: Erection of a dwelling and construction of new vehicular access following demolition of skittle alley, garage and store.

The plans that have been submitted proposed create a development plot between the main pub building, and the residential properties adjacent to the east, and as stated above the demolition of the garage building (rear of the site), skittle alley (extension to the side of the pub) and a store room building (front of the site) are proposed. New boundary details are shown to the side of the new plot (adjacent to the pub building (in part) and car park) and to the highway incorporating a new vehicular access to serve the residential plot and a pedestrian access to pub yard, which would be in the form of a 2.0 metre high brick wall.

The dwelling as proposed is a 3 bedroom unit with an approximately 105 square metres of accommodation and standing approximately 8.0 metres to ridge, a driveway and area for parking and

a garden/amenity area. The building provides accommodation over two floors with a half hipped roof arrangement. Material palette includes a slate roof covering, a brick based plinth and smooth white rendered walling.

## **APPLICANT'S SUPPORTING INFORMATION**

Design & Access statement prepared by the agent

Heritage statement prepared by the agent

An Ecology Survey Report

Letter and supporting statement provided by the agent dated 15<sup>th</sup> September 2017

Revised plans were submitted on the 21<sup>st</sup> November (drawing 2 G) confirming revised arrangements in terms of the front boundary arrangement seeking to respond to concerns expressed by Devon County Council (Highway Authority).

## **RELEVANT PLANNING HISTORY**

**77/01052/FULL** - PERMIT date 7th September 1977

Extension to restaurant to provide additional toilet facilities and recreation area (skittle alley and/or carpet bowls area)

**85/01640/FULL** - PERMIT date 19th December 1985

Erection of extension to public bar area

**86/00389/FULL** - PERMIT date 11th April 1986

Erection of extension to provide snooker room

Erection of garage and store with manager's accommodation over

**83/00568/FULL** - PERMIT date 13th June 1983

Erection of extensions to provide additional toilets and access

**83/01215/FULL** - PERMIT date 29th September 1983

Erection of an extension to provide additional toilets and entrance area

**10/01555/FULL** - PERMIT date 8th December 2010

Retention of children's play area

**12/01276/FULL** - PERMIT date 26th October 2012

Change of use and conversion of skittle alley into ancillary guest rooms

**17/00932/FULL** – REFUSE (reason as set out below) date 2nd January 2018

Change of use of public house to dwelling

1 In the view of the Local Planning Authority, it is considered that the proposal to allow the change of use of the pub (and associated curtilage) to a dwelling would result in the loss of an important community facility within this rural area to the detriment of the sustainability and viability of the local community and the rural economy. Furthermore it is not considered that sufficient justification has been provided to demonstrate that the use of the site as a public house is no longer economically viable. Overall the proposal is deemed to be contrary to Policies COR2 and COR17 of the Mid Devon Core Strategy (Local Plan Part 1), Policies DM1 and DM25 of the Local Plan Part 3 (Development Management Policies) and the National Planning Policy Framework.

## **DEVELOPMENT PLAN POLICIES**

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

COR2 - Local Distinctiveness

COR17 - Villages

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

AL/CRE/8 - Crediton Air Quality

AL/INV/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 new housing

DM25 - Community facilities

DM27 – Heritage Assets

## **CONSULTATIONS**

**Highway Authority** – Further comments to be circulated in terms of the revised arrangements as shown on drawing 2G.

**Highway Authority** original comments - 9th October 2017

Observations:

The Highway Authority have been asked to comment further on this application, and can confirm that pre application discussions took place with regard to the above proposal. However the drawings submitted as part of this application do not reflect the advice given to the applicant at the time.

The current proposals fail to deliver the build out and visibility splays required at pre application. The delivery of a build out and splays measuring 2.4 by 25m either side were required, which would benefit forward visibility through the bend at the corner of the public house while delivering the necessary access visibility. it should be noted that the splays should have no obstruction greater than 600mm which will negate the use of high gated access as demonstrated. Therefore the current application should be refused for the following reasons.

THE HEAD OF PLANNING, TRANSPORTATION AND ENVIRONMENT, ON BEHALF OF DEVON COUNTY COUNCIL, AS LOCAL HIGHWAY AUTHORITY, RECOMMENDS THAT

PERMISSION BE REFUSED FOR THE FOLLOWING REASONS

1. The proposed development would be likely to result in a material increase in the volume and a material change in the character of traffic entering and leaving the County Road through an access which does not provide adequate visibility from and of emerging vehicles, contrary to paragraph 32 of the National Planning Policy Framework.

**CREDITON HAMLETS PARISH COUNCIL - 10th October 2017**

Crediton Hamlets Parish Council met on the 2nd October and resolved to object to this proposal. Firstly because the access is unacceptable; secondly this development is in a conservation area and thirdly because if approved it would impact on the viability of the Public House.

**ENVIRONMENTAL HEALTH - 9th October 2017 -**

Contaminated land - Recommend approval with conditions

The proposed development will involve the demolition of existing premises or structures, which may contain hazardous liquid or solid materials (including asbestos). Therefore, the following condition is recommended if permission is granted.

Demolition should be carried out in such a manner as to minimise the potential for airborne nuisance, additional land contamination and/or the creation of additional contamination pathways either on the site or at adjacent properties/other sensitive receptors.

Prior to demolition commencing, a works plan and risk assessment shall be submitted for approval to the Local Planning Authority for consultation with Environmental Health Services. This plan and assessment should identify and risk-assess any potential hazardous material in above or below ground structures that will be removed or disturbed during demolition and measures to deal with these safely. All potentially hazardous materials should be assessed.

Reason: In the interests of public health and protection of the environment.

Air quality - No objection

Environmental permitting - No objection

Drainage - No objection

Noise and other nuisances - I recommend approval with conditions:

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

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

properties.

Housing standards - No comment

Licensing - Advise to contact licensing for any premises licence issues this may raise.

Food hygiene - N/a

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

Please contact Public Health at Mid Devon District Council on completion of proposal.

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

Health and safety - No objection - HSE enforced activity

**NATURAL ENGLAND** - 16th October 2017 - No comments

## **REPRESENTATIONS**

41 letters of objection to, and 1 comment in support of, the planning application proposals have been received, with key relevant points (in planning terms) summarised as follows.

1. Many of the respondents confirmed that their reasons for objecting to this current application were the same reasons as submitted regards application case ref: 17/00932/FULL which proposed a change of use of the pub and its curtilage to a dwelling to which 257 objections were made and as summarised below:
  - There is a demand for a pub in the village from the local community, unfortunately some aspects of the way in which the pub is run are questionable.
  - It is questionable if the pub has marketed at an appropriate value given the relatively low turnover as set out in the viability assessment.
  - Has sufficient marketing been done to warrant the change of use
2. The demolition of the skittle alley building would make it very difficult for the pub to be run as a successful and viable business (ref: the Local Action Group aspirations to acquire it).
3. Highway safety concerns arising from the proposed new access on a bend in the road. Building a two metre high wall is unlikely to improve visibility
4. The proposed demolition of part of the pub would ruin part of the value of the public house.
5. The skittle alley should remain in ancillary use to the pub even if not as a skittle alley –

community shop / accommodation for guests should be considered as alternative uses.

6. The new house would have an overbearing impact on the neighbouring properties.
7. The new access arrangements would affect the setting of the neighbouring listed building (The Threshing Barn) and expose it passing vehicles.
8. A new dwelling and the alterations proposed would have a negative impact on the character and appearance of the village conservation area.

## **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

The site sits forms part of the village pub which was listed as an Asset of Community Value (ACV) on the 4th March 2014, and given no community bids came forward during the designated period there are no legal reasons why the premises could not be sold on the open market since that time.

The pub has been marketed for sale since 2013 (which to some extent prompted the ACV application as referred to above) and whilst it still trades on restricted and varied opening hours. Although the site remains for sale today, and it is understood that a group from the local community (Mare and Foal Community Society) are seeking to acquire the site. As stated above in the planning history section of this report, an application to change the use of the entire pub site to a residential dwelling was submitted before this current application and was refused on 2nd January.

As was the case with this earlier application the provisions of policy DM25 remain key considerations with this current application. However given that the site falls within the Yeoford village boundary, the provisions of policy COR17 also need to be considered. Policy COR17 supports the provision of small scale residential development in principal subject to applications being determined on a site by site basis. In determining whether or not the application scheme is considered acceptable the main issues in the determination of this application are:

### **1. Justification for the reduction in the operation footprint of the Public House.**

The National Planning Policy Framework sets out at paragraph 28 that planning policies should support economic growth in rural areas, taking a positive approach in supporting the sustainable growth of all types of business, including through the conversion of existing buildings; in addition policies should promote the retention and development of local services and community facilities in villages, including public houses. Moreover, at paragraph 70 it is stated to deliver the social, recreational and cultural facilities and services the community needs, planning policies and decisions should guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs; ensure facilities and services are able to develop and modernise in a way that is sustainable, and be retained for the benefit of the community; and ensure an integrated approach to considering the location of housing, economic uses and community facilities and services.

Furthermore, policy DM25 of the Mid Devon Local Plan Part 3 (Development Management Policies) emphasises that proposals involving the loss of community facilities, including public houses, 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. Additionally, it is stated that 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.

In terms of assessing this application against the policy provisions DM25 the application would result

in a reduced site area for the village pub, as opposed to the loss of pub outright as proposed by the applicant with LPA case ref: 17/00932/FULL. The response to the public consultation by the local community on both this application, and the earlier application, demonstrates clearly that there is support for a pub in the village and as stated the local community have set up a Limited company with the objective of raising funds on a shareholding basis to acquire the pub/site. Therefore it is concluded that the ongoing operation of the pub would be beneficial to the character, sustainability and ongoing viability of the village.

The applicants agent has submitted in a supporting letter the reasons why the applicant does not consider that the application scheme will affect the viability of the operation of the site as a pub (points 7.1 -7.15) highlighting the poor state and condition of the skittle alley extension and the extent to the limited use over recent years to which it has been put to. Furthermore the agent seeks to argue that the application scheme could act as enabling development to secure the ongoing future of the pub.

As summarised in the consultation response section of this report the local community present an opposing view, on the basis that in order for the pub to operate on a sound and viable footing the footprint should be retained as it is. To supplement these comments the Mare and Foal Society have set out their aims and objectives to operate the site as a community hub providing a traditional pub in conjunction with a community café, meeting space and shop. Also as stated above in the planning history section planning permission has previously been granted for guest accommodation to be provided on this part of the site. Although the extent of the pub site shares a boundary with the adjoining residential, the area covered by the current application provides a buffer between the pub and the neighbouring residential uses. This buffer area would be lost, presenting a further challenge to the pubs ongoing future operations.

In summary whilst the proposal would not result in the total loss of the community facility it would significantly reduce the flexibility as to how the pub could be operated in the future, which ultimately is likely to reduce the ongoing viability of the site as public house/community facility. On this basis the application proposals is considered to be contrary to policy DM25.

## **2. Design issues**

The submitted plans show the new house would be located in the north eastern corner of the site and as a result would be set back from the highway by approximately 18.0 metres. Although not shown on the submitted plans the applicant is proposing a 2.0 metre high boundary wall to enclose the new dwelling and it's curtilage both at the side (adjacent to the pub car park) and at the front (adjacent to the highway). The new detail at the front of the site is to be set back on a revised alignment to improve the visibility for vehicles leaving the site. (see point 3 below). The design of the proposed dwelling is functional with the orientation proposed to maximise the outlook for future occupiers given the site location positioned in the corner of the site and set only 1.0 metre away from site boundary walls. A slate roof covering is proposed, and the half hip roof detail and the front porch create some visual interest for the building. The internal space within the building meets the National space standards for the type of housing that is proposed, and a garden area is incorporated.

Local residents in the neighbouring residential properties have presented the view that the development would adversely affect their amenities. The scheme has been designed to alleviate any issues of overlooking, and although the introduction of a new building will increase the massing of the building form on the site boundary the scope of change arising is not considered significantly harmful given the context.

Policy DM2 and DM14 requires new residential developments to be of high quality demonstrating a clear understanding of the characteristics of the site. Given the site location and the local constraints that are imposed, largely the site location being part of a pub building/curtilage, it is not considered

that the application delivers an opportunity to create a high quality residential environment.

The application scheme includes the demolition of part of the existing site frontage (approximately 16.0 metres in extent) abutting a listed building to the east (The Threshing Barn). As shown in the photographs supporting the application this wall is largely a blank wall with a number of window openings to reflect the use of the building behind it. At present this frontage sits comfortably in the street scene. The replacement detail is for a 2.0 high brick boundary to incorporate a vehicular and pedestrian access point. Whilst the detail at the junction with the adjacent converted Threshing Barn would need careful consideration it is not considered that the scope of this change would adversely affect the contribution that the site makes towards the character and appearance of this part of the village conservation area (policy test as outlined at DM27).

### **3. Parking and impacts on the local road network**

Policy DM8 of the local plan part three requires that a minimum of 1.7 parking spaces are provided per dwelling. The application scheme proposes an area in front of the house and behind the new boundary wall that is large enough to accommodate at least two parking spaces with an adequate area for turning so that access and egress would be possible in a forward gear.

Whilst a number of local residents in the village have commented that the new access is in a position on a bend in the road, and therefore it is considered that it would be dangerous. However as stated above revisions to the site access details (as shown on drawing 2 G) have been submitted which improve visibility as at the junction with the highway. The Highway Authority initially raised an objection to the application, as set out above, but have since confirmed that with the revised arrangements in place they raise no objections on highway safety grounds from a technical assessment point of view.

Taking into account the scope of proposals and the assessment comments as set out above it is on balance considered that the application scheme complies with necessary parking requirements, as required by policy DM8 of the Mid Devon Local Plan Part 3 (Development Management Policies). In terms of whether the proposed access arrangements are acceptable in terms of how they would affect the safe functioning of the highway, the updated comments from the Highway Authority will be circulated to members as an update before the meeting.

### **4. Other considerations**

The site sits just outside of the technical floodplain and the applicant is proposing a sustainable urban drainage system to manage any surface water arising. The proposed dwelling will connect with the existing main sewer for foul drainage. Further details relating to the proposed solution for surface water management should be required by condition should it be resolved to approve the application scheme.

Policy AL/IN/3 and policy AL/CRE/8 of the AIDPD would need to be addressed in advance of planning permission being granted if the event that the officer recommendation is not supported by the committee. In accordance with these policies and the relevant guidance in the supporting Supplementary Planning Documents on the provision and funding of open space and Air Quality and development financial contributions of £1442.00 and £4434.00 would be required. Reasons 3 and 4 are proposed to cover these matters.

Consideration should be given to the New Homes Bonus that would be generated by this application. If New Homes Bonus is distributed across the Council Tax bands in the same way as last year, the award for each market house is estimated to be £1,028 per year, paid for a period of 5 years at this current time.

## **5. Conclusion / Planning Balance**

In summary this application has been submitted as an enabling development opportunity in order to secure the future of the public house in Yeoford. However following the assessment process that has been undertaken as required by the relevant sections of the adopted policy framework, and considering the very strong views that have been presented by the local community in the village, it is not considered to comply with the requirements of policy DM25 in terms of protecting the viability of the site as a public house, and furthermore the site location is not considered to be location suitable to deliver new residential development. Therefore it is recommended that permission be refused for the reasons as set out at the start of this report.

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. 17/01517/FULL

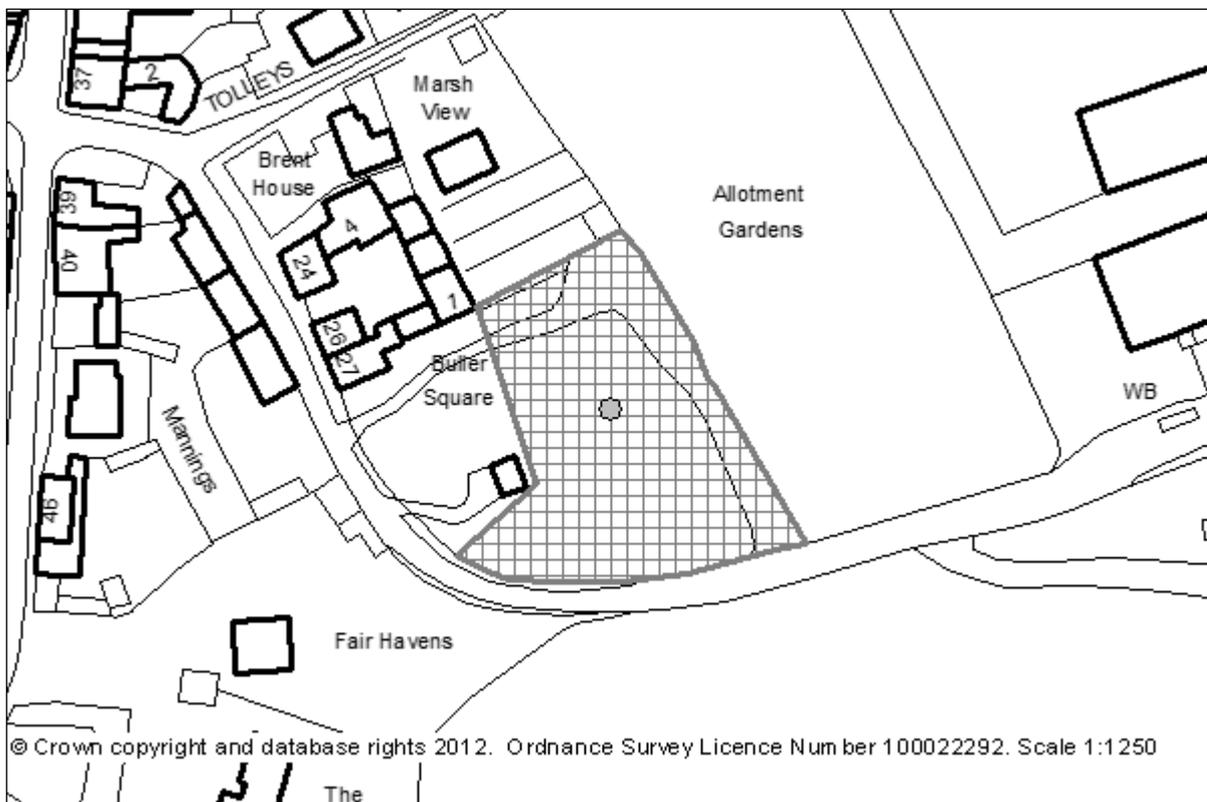
Grid Ref: 283967 : 100063

Applicant: Mrs S Partridge

Location: 27 Downeshead Lane  
CREDITON  
Devon  
EX17 1HH

Proposal: Erection of a dwelling and alterations to existing vehicular access

Date Valid: 5th October 2017



**APPLICATION NO: 17/01517/FULL**

**MEMBER CALL-IN**

**Cllr Nick Way called in for the following reason:**

**I would like to call this application in. I cannot accept the impact on the site and conservation area will be as badly affected as officers' state. Suitable screening measures could be made a condition.**

**RECOMMENDATION**

Refuse permission

**PROPOSED DEVELOPMENT**

Erection of a dwelling and alterations to existing vehicular access No 27 Downshead Lane Crediton Devon EX17 1HH.

The site adjoins Grade 2 listed buildings at Buller Square. It is in the Crediton Conservation Area. The application site lies to the south east of No 27 Downshead Lane, a two storey grade 2 listed house which forms the southern side of the listed Buller Square courtyard. No 27 was mostly unaffected by the major fire in 2012 apart from the eastern wing which has been fully repaired. The application site (0.19 Hectares) is part of the curtilage of No 27.

The site slopes significantly from the southern boundary to the listed house. The southern boundary of the site is formed by the highway (Downshead Lane). This road joins the road that serves part of the Lords Meadow Industrial Estate to the east. This road is not a through road.

There is an existing vehicular access to Downshead Lane on the south side. This access is proposed to serve the proposed house. There is a separate vehicle access closer to No 27 that will be retained to serve that house with car parking space. The area of curtilage land that is directly south of No 27 (including that access) is proposed to be fenced off for use as a garden for No 27.

The proposed house will be sited on the curtilage land, formerly an orchard, to the south east of No 27. It takes the form of an L-shaped dwelling, part two storey and part single storey. The longer two storey wing of the house is to be north south oriented and the single storey wing (closest to No 27) is to be east west oriented.

The ground floor will comprise large hall from north facing front doorway with cloakroom, open plan kitchen/dining room, utility room, separate sitting room, two separate study rooms and plant room. The first floor will comprise three bedrooms and three bathrooms plus three dressing rooms. The ground floor footprint is 161.0Sq m and the overall floor space is 274Sq m.

Due to the significant slope of the land it is proposed to excavate the land at the southern end of the north south wing to avoid any steps within the ground floor plan.

This will therefore require external retaining walls to provide the level courtyard space in the right angle space formed by the L-shape building mass.

The depth of the excavation at the southern end of the two storey wing, and to achieve the courtyard at the ground level of the house, is approximately three meters. The development will necessitate the removal of one mature oak tree and some vegetation. The east elevation and the north elevation would be faced in brick. The west elevation and the south gable end of the long wing would all be rendered using an off white/pale grey self-coloured render system. Roofs would be clad in slate, and would include large and small roof lights. The south elevation will be covered extensively with solar panels.

Car parking and turning is proposed at the northern end of the site next to that boundary. No garaging or covered car port is proposed.

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

Plans and elevations  
Design and Access Statement  
Heritage Statement  
Tree survey  
Wildlife Survey

#### **RELEVANT PLANNING HISTORY**

**00/01654/CAT** - NOBJ date 5th December 2000  
Notification of intention to fell 4 Birch, 1 Hawthorn, 1 Poplar, 1 Elder and 1 Apple tree in the Conservation Area  
**00/01655/CAC** - PERMIT date 21st December 2000  
Conservation Area Consent for the demolition of part of boundary wall  
**01/02015/CAT** - NOBJ date 19th December 2001  
Notification of intention to fell 1 no. Silver Birch and 9 no. Wych Elms within a Conservation Area  
**03/01498/LBC** - PERMIT date 29th August 2003  
Listed Building Consent to remove internal partitions, alterations to fenestration, including installation of replacement windows and reinstatement of door  
**87/01024/OUT** - REFUSE date 24th August 1987  
Outline for the erection of two dwellings and construction of vehicular access  
**88/00079/FULL** - PERMIT date 29th March 1988  
Erection of garage and construction of vehicular access  
**91/01527/LBC** - PERMIT date 14th January 1992  
Listed Building Consent for alterations to lincay to provide ancillary domestic accommodation  
**98/00940/FULL** - REFUSE date 7th September 1998  
Erection of bungalow with garage underneath and detached garage (to serve existing dwelling No.27)  
**06/01717/LBC** - PERMIT date 15th September 2006  
Listed Building Consent for insertion of replacement window  
**12/01759/LBC** - PERMIT date 7th February 2013  
Listed Building Consent for reconstruction works due to fire damage  
**12/01772/FULL** - PERMIT date 8th February 2013

Reconstruction works due to fire damage  
17/01517/FULL - PCO date  
Erection of a dwelling and alterations to existing vehicular access

#### **OTHER HISTORY**

16/01101/PREAPP - CLO date 13th September 2016 - PROTECT - Proposed erection of dwelling

#### **DEVELOPMENT PLAN POLICIES**

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

COR2 - Local Distinctiveness

COR15 - Crediton

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

AL/IN/3 - Public Open Space

AL/CRE/8 - Crediton Air Quality

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

DM2 - High Quality Design

DM8 - Parking

DM27 - Heritage Assets

#### **CONSULTATIONS**

Crediton Town Council - No objection.

DCC Highways – No objection

Would not raise an objection to the single dwelling and the increase in traffic would not be considered as severe. Traffic speeds are low by the very nature of the narrow substandard carriageway and as long as the existing access provided the appropriate level of visibility the scheme is acceptable. Anticipate speeds to be between 10 and 20mph so a splay of 2.4m by 14m with no obstruction greater than 600mm would be appropriate.

#### **REPRESENTATIONS**

None.

#### **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

The main issues in the determination of this application are:

1. Principle of development.
2. Impact on setting of conservation area and listed buildings.
3. Design and amenity.
4. Ecology.
5. Parking.
6. Highways and Highways safety.
7. Other matters.

1. Principle Policy COR15

The site is located within the settlement boundary of Crediton where small scale residential proposals are acceptable in principle in accordance with policy COR15.

However, the fact the development is within the settlement limits of Crediton does not override the other policy considerations that apply in this case as set out and considered below

## **2. Impact on the setting of the Conservation Area and listed buildings. Policy DM27 and National Planning Framework**

The primary determining issue in this case is the impact of the development on the setting of the Crediton Conservation Area and the setting of the listed house No 27 and the adjoining Buller Square group.

Paragraph 131 of the National Planning Policy Framework states that:-

*'When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification.'*

The adopted appraisal accompanying the Crediton Conservation Area (a designated heritage asset) shows this specific garden site as being 'a visually important open space in the Conservation Area'. This appraisal was created when the Conservation Area was reviewed in 2003 to assist with decisions on development. This carefully considered appraisal advice should inform the decision on this current proposal. It strengthens the view that the site is particularly sensitive and important as it currently exists as an open space. The clear implication is that development on the site would have a significant and harmful impact on the setting of the conservation area. Para 131 of the NPPF quoted in full above requires that 'great weight' should be given to the assets' conservation area and that 'any harm or loss should require clear and convincing justification'.

Officers have been consistent in their advice to the applicant on this case. At the pre application stage officers advised that a new house on this site could not be supported due to its adverse impact not only on the setting of the Conservation Area but also setting of the listed house at No 27 Downeshead Lane and the adjoining listed group. This proposal is detailed and for a different design but is on broadly the same site, albeit larger than indicated at the pre-application stages.

The site is on a steep slope and a 'cut in' type approach is used to engineer the house within the slope. The north south wing of the house is two storey and the southern end is set into the ground by approximately 3 metres. Due to the land slope the full two-storey end of the house and significantly the most prominent element is on the part of the site closest to the listed building (no. 27). At its full height this gable end is 7.4 metres above ground level. At the closest point to the listed house and with only 16.0 metres separation, the difference in land level is approximately 3 metres. This means that the eaves level of the closest part of the new house is approximately 6 metres above the ground level at the south elevation of No 27. The ridge height at its closest point to No 27 is 8.4 metres above that ground level. Furthermore, the ridge height of the two storey gable of the proposed house is approximately 10.0 metres above the ground level at the front of No 27, and between 2.0 – 5.5 metres higher than the ridge level of the listed house.

The very substantial height difference to the listed buildings will create an overpowering impact visual impact as viewed from No 27. This impact will not be positive or even neutral it will be negative and

harmful. It will create an alien intrusion into an important open space.

The ground works associated with the proposal will also create an unnatural contrived form in the local landscape. It is the view that the proposal will cause significant harm to the character of the conservation area and the setting of the listed buildings.

Policy DM27 and NPPF para 134 require that where there is harm to the setting of heritage assets this harm should be weighed against the public benefits of the proposal.

The applicants have not submitted any public benefits arising from this proposal that will outweigh this harm. The personal circumstances of the applicant do not outweigh the harm caused. A permanent development proposal for something that addresses a personal circumstance is not acceptable where there are other fundamental objections to that proposal.

The proposal does include the loss of an oak tree and other vegetation which will allow the building to be more widely visible in the local and distant landscape.

It is the view that the proposed development will have a strongly negative rather than positive impact on the setting of the Conservation Area by severely compromising the important open space that currently exists.

### **3. Design and amenities Policy COR2 and DM2**

The applicant's Design and Access Statement makes a case for the design of the house taking into account some local building references. In reality, this is unconvincing because the design has no particular relationship in terms of building forms or massing to the adjoining listed buildings. It could actually be designed for any sloping site in Crediton or elsewhere in the County and beyond. The same conceptual principles adopted in this case by the applicants could apply equally to many other sites. It has no particular sense of local distinctiveness. Added to this is the fact that the house has been placed on the site in a form that makes sense for the proposed occupants and the access and garden, that is to achieve level access at ground and first floor levels and to the courtyard.

It has no correlation to boundaries e.g. walls or hedges that would help it assimilate into this sensitive landscape. The site is strongly elevated above No 27 and the new house will be visible from much further afield. It is a very large building that dwarfs the small domestic scale of buildings nearby in terms of its massing and scale. Also rather than working with, and respecting, the strong natural slope of the land the proposal simply cuts into it and will inevitably scar it permanently with unnatural contours.

It is the view of officers that the design is not locally distinctive in terms of its massing or elevations and will have a negative rather than positive impact on the local environment.

Policy DM2 states that:

*designs of new development must be of high quality, based upon and demonstrating, inter alia, the following principles:*

- a) Clear understanding of the characterizes of the site, its wider context and the surrounding area;*
- b) Efficient and effective use of the site, having regard to criterion (a);*
- c) Positive contribution to local character including any heritage or biodiversity assets and the setting of heritage assets;*

It is the officer's view for the reasons above that the proposed development would not be in accordance with policy DM2. While the applicants have demonstrated that they have analysed the

characteristics of the site (part (a) above) and its context they have failed to make a convincing case for the development on this very sensitive site and its impact on the setting of the Conservation Area and the adjoining listed buildings. It is the view that the proposed development will make a negative rather than *'positive contribution to local character including the setting of heritage assets'* (part c).

Policy COR2 (Local Distinctiveness) requires that:

*'Development will sustain the distinctive quality, character and diversity of Mid Devon's environmental assets through:*

*a) high quality sustainable design which reinforces the character and legibility of Mid Devon's built environment and creates attractive places, and*

*e) the preservation and enhancement of Mid Devon's cultural and historic environment, and the protection of sites, buildings, areas and features of recognised national and local importance.*

It is the Officer's view for the reasons given above that the proposed development does not *'reinforce the character and legibility'* of Crediton's built environment. It is rather a very large mass of new building imposed on an intimate local landscape. Nor does it *'preserve and enhance'* the local historic environment including the Conservation Area and adjacent listed buildings.

#### **4. Ecology**

The applicant's commissioned ecology report finds no particular obstacles to the development of the site other than precautionary works regarding lighting and provision of bird boxes and bat boxes.

#### **5. Parking**

Policy DM8 requires the minimum of 1.7 spaces per dwelling and 4 cycle spaces per dwelling. Such space is accommodated for the new house and the existing house.

#### **6. Highways and Highway safety**

The access to the highway is from an existing access to Downshead Lane.

No objections have been raised by the Highway Authority subjects to improvements at the junction with the highway to improve visibility. The necessary details (a splay of 2.4m by 14m with no obstruction greater than 600mm would be appropriate) could be secured as a conditional requirement if the resolution passed by members is to grant planning permission.

#### **7. Other matters**

Policy AL/IN/3 and policy AL/CRE/8 of the AIDPD would need to be addressed in advance of planning permission being granted if the event that the officer recommendation is not supported by the committee. In accordance with these policies and the relevant guidance in the supporting Supplementary Planning Documents on the provision and funding of open space and Air Quality and development financial contributions of £1442.00 and £4434.00 would be required. The applicants have made the appropriate payments and submitted the necessary paperwork to address these requirements.

Consideration should be given to the New Homes Bonus that would be generated by this application. If New Homes Bonus is distributed across the Council Tax bands in the same way as last year, the award for each market house is estimated to be £1,028 per year, paid for a period of 5 years at this current time.

## **Summary**

It is the view that the proposed development will have a strongly negative rather than positive impact on the setting of the Conservation Area by severely compromising the important open space that currently exists and that is specifically referred to in the Conservation Appraisal.

Policy DM27 and NPPF para 134 require that where there is harm to the setting of heritage assets this harm should be weighed against the public benefits of the proposal.

The applicants have not made claim to any public benefits arising from this proposal that will outweigh this harm. This is the first and most important consideration. The second objection relates to the design and massing of the proposed building.

It is the view of Officers that the design of this very large building is not locally distinctive in terms of its massing or elevations and will have a negative rather than positive impact on the local environment. It will not integrate well into the landscape. It has been demonstrated above that it is not in accordance with Policy COR2 or Policy DM2

Officers have been consistent in their opposition to the proposed development on this site.

If Officers had felt that amendments to the scheme could be negotiated that would overcome the fundamental concerns expressed above then such negotiations would have taken place. However in this case an approach to the applicants to enter into negotiations would have led to a false impression that the development could be designed to overcome the fundamental objections.

Hence the recommendation below is a clear and firm recommendation based on the analysis of the proposal above in the context of national and local policy considerations.

## **REASON FOR REFUSAL**

In the view of the Local Planning Authority the proposed new dwelling because of the siting, size, scale and overall design will lead to the introduction of an incongruous and dominant new building form in the Crediton Conservation Area and within the setting of the listed building (referred to as 27 Downeshead Lane). The Crediton Conservation Area adopted appraisal shows this garden site as being a visually important open space in the Conservation Area and it is not considered that the proposed dwelling demonstrates an understanding of its wider context or makes a positive contribution to character or the setting of this heritage asset. Overall it is considered that the dominant scale, mass and design of the proposed dwelling would result in harm to the character and setting of the listed building and would be detrimental to the character and appearance of this part of the Crediton conservation area, and in the absence of any demonstrable public benefits that would outweigh this harm the proposal is therefore considered to be contrary to the requirements of policies DM2 and DM27 of the Local Plan part 3 (Development Management Policies) and part 12 of the National Planning Policy Framework.

The Human Rights Act 1998 came into force on 2<sup>nd</sup> 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. 17/01732/FULL

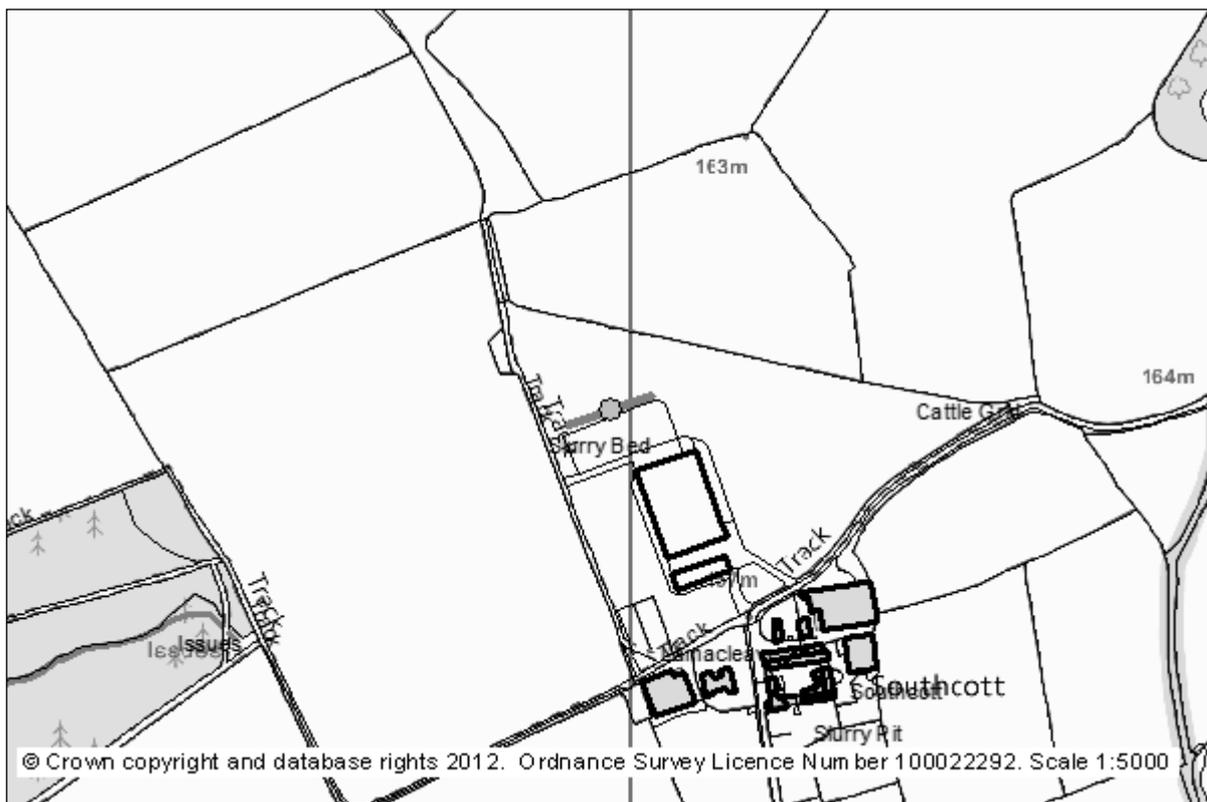
Grid Ref: 270036 : 111582

Applicant: D & S Slade

Location: Land at NGR 270036 111582 (Southcott Farm)  
Chawleigh  
Devon

Proposal: Installation of a ground-mounted adjustable frame consisting of 110 solar photovoltaic panels

Date Valid: 1st December 2017



## **APPLICATION NO: 17/01732/FULL**

**The recommendation to approve this application is agreed for the reasons as set out in this report below.**

The application is for a solar photovoltaic array

### **RECOMMENDATION**

Grant permission subject to conditions

### **PROPOSED DEVELOPMENT**

The application seeks planning permission for the installation of a 29.70 KW ground mounted adjustable frame solar array consisting of 110 solar photovoltaic panels on land at NGR 270036 111582 (Southcott Farm).

The site is located within the open countryside to the north of the farm complex on a small area of land positioned between the dairy unit buildings and a slurry lagoon. It is separated from productive agricultural land by the lagoon barrier fencing.

The array will be laid out in a single row of double height panels, sectioned in to groups of ten. Each set of ten panels will be capable of being independently tilted to gain maximum advantage from the sun according to the time of year. Overall the development will measure 57.9 metres in length with the panels mounted on a frame, fixed at an angle with a standing height of up to 3m.

The installation of solar panels is designed to meet a large proportion of the electricity requirements of the existing dairy unit. It is estimated that the panels will produce 32,114kWh per annum of electricity. The current electricity usage on the farm is around 80,000kWh per annum.

This application, being a Schedule 2 development, has been screened in order to determine whether or not EIA is required. The Local Planning Authority considers that this particular development would not be likely to have significant effects on the environment and an EIA is not required in this instance.

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

Design and Access Statement

Supporting information

### **RELEVANT PLANNING HISTORY**

**09/00802/PNAG** - NOBJ date 27th July 2009

Prior notification for the erection of a silage clamp

**10/00712/FULL** - PERMIT date 10th September 2010

Erection of a milking parlour

**12/01092/PNAG** - NOBJ date 31st August 2012

Prior Notification for the erection of an agricultural livestock building

**12/01441/MFUL** - PERMIT date 3rd January 2013

Erection of an agricultural dairy unit (2560 sq m) and slurry store

**13/01284/PE** - CLOSED date 24th January 2014

To retain and upgrade 2750m of existing 11kv overhead line to 3 phase and install and additional pole to support a larger transformer

**14/00305/FULL** - PERMIT date 17th April 2014

Construction of silage pit

**14/01046/PNAG** - CLOSED date 22nd July 2014

Prior notification for the excavation of a reservoir for the storage of roof and rainwater (planning permission not required)

**17/00733/MFUL** - PERCON date 10th August 2017

Erection of an agricultural livestock building (1350 sq.m.)

**17/01732/FULL** - PCO date

Installation of a ground-mounted adjustable frame consisting of 110 solar photovoltaic panels

## **OTHER HISTORY**

None

## **INFORMATIVES**

None

## **DEVELOPMENT PLAN POLICIES**

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

COR2 - Local Distinctiveness

COR5 – Climate Change

COR18 - Countryside

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

DM1- Presumption in favour of sustainable development

DM2 - High quality design

DM5 – Renewable & Low Carbon Energy

DM7 – Pollution

## **CONSULTATIONS**

Highways Authority- made representations on the 13th December 2017 confirming that they have no objection to the proposal but would advise that Shooting Lane is narrow and substandard in terms of width and alignment. The Local Planning Authority may wish to restrict the size of delivery vehicles or request swept path analysis of the largest delivery vehicle to the site along its route.

Environment Agency- Operational development less than 1ha within Flood Zone 1. No consultation required.

Eggesford Parish Council- No comments received at the time of writing this report

Coldridge Parish Council- No comments received at the time of writing this report

Wembworthy Parish Council- No comments received at the time of writing this report

Lapford Parish Council – made a no comment representations on the 2nd January 2018.

Chawleigh Parish Council- made representation on the 8th December 2018 in support of the application

## **REPRESENTATIONS**

Three letters of representation have been received and can be summarised as follows;

- One letter of supports for the planning application
- One letter of observations requesting that any decision made should take account of the potential for loss of agricultural land, effects on visual amenity and the potential effect on the local electricity grid.
- One letter of objection stating that the application should be refused because it does not make best use of the land and will take it out of food production, there is no evidence that alternative siting, such as on the roofs of existing buildings, has been taken into consideration and there is no transport plan. The approaches to the site, especially from the nearest main road, the A377, are totally unsuitable for anything larger than motor cars.

These matters are addressed in the assessment section for the report.

## **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

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

1. Compliance of the development with relevant local plan policies;
2. The impact of the development on landscape character;
3. The impact of the development on amenity;
4. The operational impact of the site and highway safety;
5. Impact of the development on wildlife;
6. Loss of agricultural land; and
7. Other matters.

### **1. Policy and procedure**

The National Planning Policy Framework applies a presumption in favour of sustainable development and part 10 calls for planning policies and decision making to have a positive strategy to promote energy from renewable and low carbon sources, and identify opportunities where development can draw energy supply from renewal or low carbon systems.

The site sits is outside of an adopted settlement limit and is therefore considered to be in a countryside location. Policy COR18 of the Mid Devon Core Strategy (Local Plan Part 1) states that

development outside settlement limits will be strictly controlled unless for appropriate agricultural and rural uses. Renewable energy development (refer to Criterion F) is one such use.

Policy COR 2 requires developments to sustain the distinctive quality, character and diversity of Mid Devon's environmental assets through high quality sustainable design which reinforces character and creates attractive places.

Policy COR5 sets measures for development to minimise the impacts of climate change and to contribute towards national targets for the reduction of greenhouse gas emissions. This should be achieved through the development of renewable energy capacity in locations with an acceptable local impact, including visual impact and on nearby residents and wildlife.

The Local Plan Part 3 (Development Management policies) Policy DM1 relates to the presumption in favour of sustainable development and sets out those planning applications that accord with the policies of the local plan will be approved without unnecessary delay, unless material considerations indicate otherwise.

Policy DM5 sets the key policy tests for the scheme and is set out below:

Proposals for renewable or low carbon energy will be permitted where they do not have a significant adverse impact on the character, amenity, and visual quality of the area, including cumulative impacts of similar developments within the parish or adjoining parishes.

Where significant impacts are identified through environmental impact assessment, the Council will balance the impact against the wider benefits of delivering renewable and low carbon energy, considering:

- (a) Landscape character and heritage assets.
- (b) Environmental amenity of nearby properties in accordance with Policy DM7.
- (c) Quality and productivity of the best and most versatile agricultural land (grades 1, 2 and 3a).
- (d) Biodiversity (avoiding habitat fragmentation).

Policy DM7 seeks to control development that risks negatively impacting on the quality of the environment through noise, odour, light, air, water, land and other forms of pollution. Development will be permitted where effects of pollution will not have an unacceptable negative impact on health, the natural environment and general amenity.

The compliance of the development with these criteria will be considered in the assessment below.

## **2. The impact of the development on landscape character**

The application site occupies a discrete location to the rear of the existing dairy buildings. The topography is relatively flat and the buildings provided a back drop for the solar panels, visually anchoring them so that they appear as part of the wider farm complex rather than as an isolated or obtrusive feature.

A public bridleway passes close to the application site from which walkers or riders would be able to glimpse views of the solar panels. Due to the size of the array and the location close up against the farm complex the impact of the development for the users of this route will be negligible in terms of its wider impact.

Whilst limited views of the development will be possible for further afield, given the scale and nature of the scheme it is considered that any resulting visual, landscape and/or environmental impacts would not be harmful to the character and visual amenity of the rural location and would not outweigh the renewable energy benefits arising from the scheme.

Subject to a condition requiring the solar panels to be removed when they are no longer required for the purposes of energy generation the application is considered acceptable in terms of its impact on landscape character.

### **3. The impact of the development on amenity**

The development is positioned within an agricultural field, to the north of the dairy units. Given the separation distance to the nearest residential dwelling and the presence of the dairy units in between, it is not considered that the panels will result in any detrimental effects on the amenity of existing and future occupiers of this property.

The development is also remote from non-associated neighbours and due to its location and scale it is considered unlikely that there would be significant impacts on environmental amenity in accordance with criteria B of policy DM5 and DM7 of the Local Plan part 3.

### **4. The operational impact of the site and highway safety**

The Highway Authority has no object to the proposal. Access to the site will be required for site preparation, delivery and installation of the panels. This will be gained via the existing site access and through the farm yard. Due to the narrow width of Shooting Lane and its alignment a small 7.5tonne vehicle will be used to transport the equipment and panels to site. This is a smaller vehicle than the existing tanker delivery vehicles which already access the farm for milk collection every other day. In the interest of highway safety a condition is proposed to ensure that the delivery route, frequency and type of vehicles used to transport plant, machinery and/or equipment to site are agreed. Once installation is complete, access will only be necessary for inspection and maintenance at a frequency of 1-2 times per year.

### **5. Impact of the development on Biodiversity**

The development occupies a strip of land located between the existing dairy unit buildings and a slurry lagoon, contained within the barrier fencing of the lagoon. There is a native hedgerow located to the north of the development site which remains unaffected by the development. The development is unlikely to result in a significant adverse impact to any biodiversity interest at the site and opportunities for wildlife enhancement are limited. Due to the nature of the development it is recommended that works are completed outside of the bird nesting season (1st March - 31st July inclusive) in order to avoid impact on nesting birds and infringement of the Wildlife and Countryside Act 1981.

### **6. Loss of agricultural land**

The land on which the development will be located is constrained by surrounding features including the site buildings, the slurry lagoon and barrier fencing which cumulatively prevent the land from

being within productive agricultural use.

The Local Planning Authority's system highlights that the site is situated on grade 3 agricultural land, although it does not distinguish whether this is 3a or 3b. Notwithstanding this it is considered that the extent of the scheme, which is for 2 rows of panels at approximately 58.0 metres in length, forms a relatively small part of the overall holding and will not adversely impact on its overall productivity.

Given the scale of the development in relation to the overall land holding and the constrained nature of the site, it is not considered that the installation would have a significant adverse impact upon the operation of the holding or on the availability of the best and most versatile agricultural land.

## **7. Other matters**

The panels are proposed to be located to the north of the farm. The grid connection from the inverter adjoining the panels to the farm building will be laid underground and the land reinstated. The grid connection metering and switching point are located within the existing dairy unit.

Concerns have been received that alternative sites may not have been considered, such as siting the panels on the building. In response to this siting the panels on the dairy buildings this is not considered to be appropriate in this case due to the angle of the roofs and the aspect. The current buildings have been designed with cow comfort and air flow as priority. Siting panels on these roofs would adversely impact this. In addition, the panels proposed are adjustable, and so ground mounting is required in any event. Overall the proposed site is considered to be the best available location within the farm complex.

## **8. Conclusion**

The erection of a photovoltaic array comprising two rows of 110 panels on a small parcel of agricultural land directly adjacent to the farm building complex is considered to be acceptable.

In summary the renewable energy benefits that will arise from the proposed scheme are achievable without;

- Having an adverse impact on the landscape and character of the area,
- Adversely affecting the environmental and visual amenities of the nearby residential property,
- Harming the living conditions of the occupiers of other nearby dwellings,
- Adversely affecting the availability of productive agricultural land,
- Adversely affecting local habitats within the site and surrounding area.
- Adversely affecting highway safety.

As such the development complies with Policy COR2, COR5 and COR18 of the Mid Devon Core Strategy (Local Plan Part 1), Policies DM1, DM2, DM5 and DM7 of the Mid Devon Local Plan Part 3 (Development Management Policies) and guidance in the National Planning Policy Framework (NPPF). It is therefore recommended that the application is approved subject to conditions

## **CONDITIONS**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice.
3. Prior to delivery to site of any plant, machinery or equipment relating to the development hereby approved details of the delivery route, vehicle type and frequency of trips proposed shall be submitted to and agreed in writing by the Local Planning Authority. The development shall then be completed in accordance with the agreed details.
4. If the solar farm hereby permitted is no longer required for the purposes of energy production, it shall be dismantled and all materials removed from site including the solar arrays, their supporting stands and any other associated infrastructure or development within 1 year of the date of the cessation of the use.
5. The electricity services from the solar array to the grid connection shall be placed underground unless otherwise agreed in writing by 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 in the interests of proper planning.
3. In the interest of highway safety in accordance with Policy DM2 of the Mid Devon Local Plan Part 3 (Development Management Policies).
4. To ensure the achievement of satisfactory restoration. In accordance with Policies DM5 and DM18 of the Mid Devon Local Plan Part 3 (Development Management Policies).
5. To protect visual amenity in accordance with Policy DM5 of the Mid Devon Local Plan Part 3 (Development Management Policies)

## **INFORMATIVES**

All clearance works in association with the approved scheme shall be carried out outside of the bird nesting season which runs from March to September inclusive. If it is necessary for work to commence in the nesting season then a pre-commencement inspection of the vegetation and buildings for active bird nests should be carried out. If vegetation cannot be clearly seen to be clear of bird's nests then an experienced ecologist should be called in to carry out the check. Only if there are no active nests present should work be allowed to commence.

The applicant should note that under the terms of the Wildlife and Countryside Act (1981) and the Habitats Regulations (2010) it is an offence to disturb or harm any protected species, or to damage or disturb their habitat or resting place. Please note that this consent does not override the statutory protection afforded to any such species. In the event that your proposals could potentially affect a protected species you should seek the advice of a suitably qualified and experienced ecologist and consider the need for a licence from Natural England prior to commencing works. Please see Natural England's website for further information on protected species.

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

The erection of a photovoltaic array comprising two rows of 110 panels on a small parcel of agricultural land directly adjacent the farm building complex is considered to be supportable in policy terms. The

energy benefits that will arise from the proposal outweigh the minor landscape impacts and the proposal can be accommodated without significant adverse impacts to the landscape character of the local environment and/or residential amenity. Subject to a condition ensuring that the delivery route, frequency and type of vehicles used to transport plant, machinery and/or equipment to site are agreed, the impact of the development on highway safety is considered acceptable. As such the development complies with Policy COR2, COR5 and COR18 of the Mid Devon Core Strategy (Local Plan Part 1), Policies DM1, DM2, DM5 and DM7 of the Mid Devon Local Plan Part 3 (Development Management Policies) and guidance in the National Planning Policy Framework (NPPF). It is therefore recommended that the application is approved subject to conditions.

The Human Rights Act 1998 came into force on 2<sup>nd</sup> 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. 17/00057/FULL

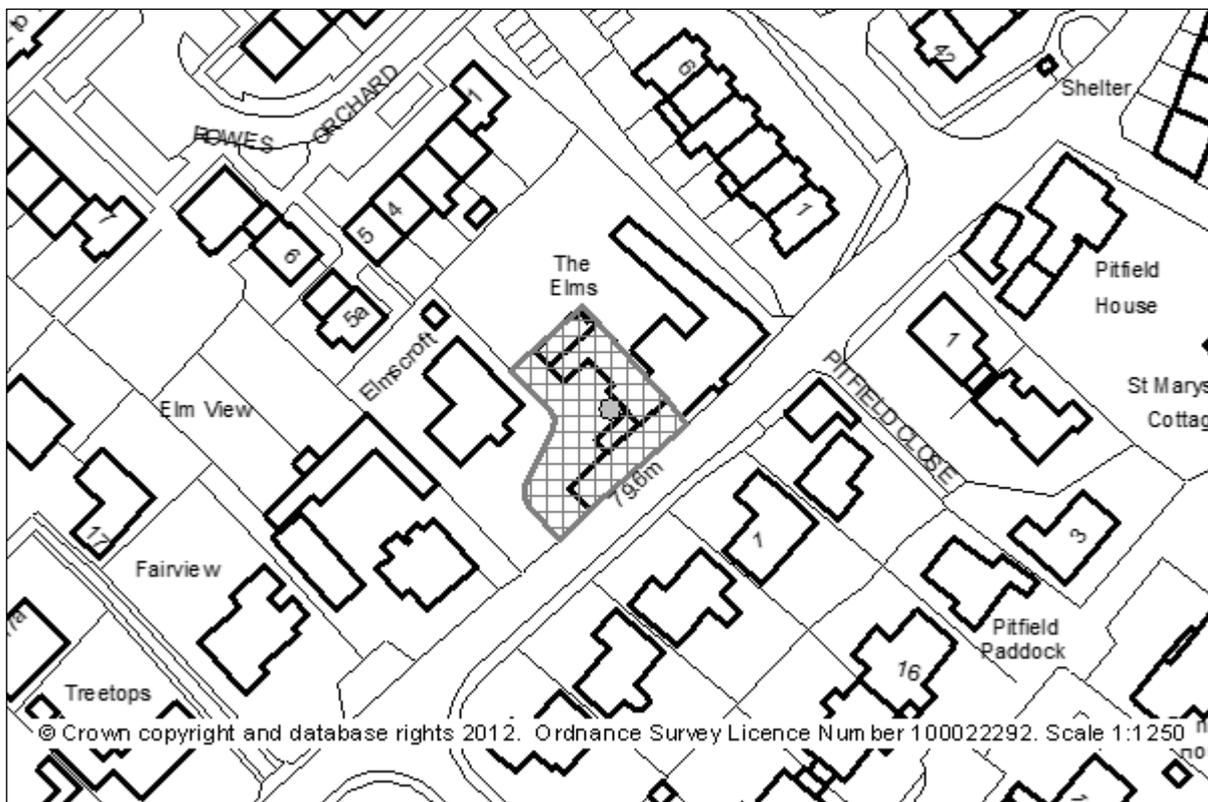
Grid Ref: 303552 : 110334

Applicant: Ms J Knighton

Location: The Elms  
Willand Old Village  
Willand  
Cullompton

Proposal: Conversion of outbuildings to form 2 dwellings

Date Valid: 8th February 2017



**APPLICATION NO: 17/00057/FULL**

**MEMBER CALL-IN**

**The application was called in by Cllr Richard Chesterton to consider whether the parking and access arrangements are satisfactory**

**RECOMMENDATION**

Grant permission subject to conditions

**PROPOSED DEVELOPMENT**

The proposal is to convert a range of outbuildings into two dwellings. The site is within the Willand Conservation Area and the buildings are considered to be important unlisted buildings. The main barn sits parallel to the road and is mainly cob construction with some brick and stonework and a slate roof. The rear barns forming a courtyard with the main barn are a mix of stone, brickwork, block and timber with metal sheeting and Roman tiles.

The outbuildings are within the domestic curtilage of a dwelling known as “The Elms” and form a courtyard facing away from The Elms. Access to the buildings is via an existing access leading into the courtyard, the courtyard currently being used for parking for The Elms.

It is proposed to retain the existing access and provide four parking spaces within the courtyard for the two new dwellings. Four new parking spaces would be provided to the rear of The Elms to serve that dwelling and its annexe. These new parking spaces would be accessed via an existing access to the north-east of The Elms, which would be modified to meet Highway Authority requirements.

The existing garden to The Elms would be divided to provide a garden area for each of the new dwellings, as well as retaining a garden area for The Elms and its annexe.

**APPLICANT’S SUPPORTING INFORMATION**

Design and access statement  
Structural survey  
Bat survey and report

**RELEVANT PLANNING HISTORY**

**10/00924/FULL** - PERMIT date 20th August 2010  
Conversion of existing outbuilding to form annex for additional ancillary living accommodation

**OTHER HISTORY**

**11/01381/PREAPP** - CLO date 26th October 2011  
PROTECT: Conversion of outbuildings to form 3 residential dwellings

**DEVELOPMENT PLAN POLICIES**

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

COR2, COR17

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

AL/IN/3, AL/DE/

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

DM2, DM8, DM14, DM15, DM27

**National Planning Policy Framework**

SPD on parking

SPD on public open space and development

**CONSULTATIONS**

**HIGHWAY AUTHORITY – 30<sup>th</sup> October 2017**

No further observations to make and happy to accept the current proposals.

19<sup>th</sup> June 2017

The alternative access arrangement shown on drawing 513/110/Rev A is generally in accordance with the observations made by the Highway Authority and represents a safer access to the. However detailed design of the build out is required and subject to the appropriate highway legal agreement the Highway Authority would raise no further objection. Therefore the condition below should be imposed on any consent

1. No dwelling hereby approved shall be first occupied until the off-site highway works indicated on drawing number 513/110 Rev E have been completed and made available for use, in accordance with details which shall previously have been submitted to and approved in writing by the Local Planning Authority.

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

**WILLAND PARISH COUNCIL – 12<sup>th</sup> November 2017**

The Parish Council has considered the number of changes to the plans and whereas Councillors feel that the reduction to two residential units is an acceptable move there are still three areas of concern.

Although the roof lights have been removed from the elevation against the road it will still be possible to see roof lights on the Courtyard Elevation A as one travels towards the church from the Cullompton direction. The Parish Council is concerned that in spite of asking there is no updated written view of opinion/advice from the conservation officer on file in the light of her very comprehensive original report. This omission denies information and consideration of the full facts.

The proposed parking arrangements are still a very real cause for concern. Currently there are three cars regularly parked down the right-hand side of the building which appear to belong to residents of the annex(s). Main house residents appear to park in the courtyard intended to be used for the two new properties. Currently this area has a number of cars parked together with a car trailer and a boat on a trailer. Where is the main house parking to be located? It has also been noted that on occasions cars have been parked opposite the main building on the road which already suffers from excessive

on road parking from other houses in the area. There is only a pavement on one side of the road and it is a bus route in both directions. It is therefore important that further need for on street parking is not created.

It is noted that a driveway is to be made down the right-hand side of the house with four parking spaces created at the rear of the site. The spaces appear to be 'small' when measured and it is questioned as to whether there is sufficient room available for turning. It is noted the entrance on the North East is to be widened to give a splay on the north side. The Parish Council do not consider this to be practical as the land belongs to the Townlands Estate Management Company and the owner of Number 1. There is also a newly replaced pole in the way which carries overhead cables. Photographs have been supplied showing regular on road parking at this point and so the proposals are irrelevant and in any case the danger will come from the south where visibility is restricted by the house. It could be argued that currently vehicles parked to the right of the house reverse into the road from where they are parked.

Four spaces are to be provided for the new residences in the courtyard. These are considered to be small when measured [4.8 x 2.4 meters]. The gap between parking space 2 and the boundary could cause difficulties for access by vehicles using spaces 3 and 4. There is also a strong concern as to the ability for these vehicles to be turned on site to enter and leave in forward gear.

No provision can be seen as to where storage will be provided for refuse/recycling bins. This is also applicable for the main house and the annex(s) who currently appear to use the courtyard area.

The Parish Council recommend refusal of the application for the reasons given with particular weight being given to the provision of adequate off-road parking for the whole complex.

If Officers are minded to approve the application without addressing the points raised Ward Councillors are asked to consider calling the application before the Planning Committee.

#### **HISTORIC ENGLAND - 14th February 2017**

On the basis of the information available to date, we do not wish to offer any comments. We suggest that you seek the views of your specialist conservation and archaeological advisers, as relevant.

#### **ENVIRONMENTAL HEALTH - 20th February 2017**

Contaminated Land - no objection to this proposal

Air Quality - no objection to this proposal

Environmental Permitting - N/A

Drainage - no objection to this proposal

Noise & other nuisances - recommend approval with conditions:

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

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

Housing Standards - no comment

Licensing - no Comment

Food Hygiene – N/A

Private Water Supplies - Informative note re water supplies

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

#### **REPRESENTATIONS**

2 objections summarised as follows

1. Insufficient parking and parking located too far from properties would encourage additional on road parking. There are already parking problems on the road outside The Elms narrowing the road causing safety concerns on a bus route and increasing noise levels.

2. The current drive is very narrow with poor visibility. There is limited opportunity to improve visibility due to the telegraph pole. The access to the parking area is long and narrow with no turning or passing places. Pedestrian access leading directly onto the road with no pavement is a safety concern.

3. Loss of privacy to 5 Townlands.

2 further representations summarised as follows

1. Visibility splay takes in land owned by Townlands Estate.

## **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

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

1. Principle of development
2. Design and layout
3. Effect on heritage assets
4. Access and parking
5. Effect on privacy and amenity of neighbouring residents
6. Ecology
7. Section 106 and other financial considerations

### **1. Principle of development**

The site is within the defined settlement boundary of Willand where minor residential development is acceptable in principle under policy COR17 of the Mid Devon Core Strategy (LP1).

A structural report has been submitted which has identified a number of issues that need to be rectified such as re-rendering and replacement of internal timbers and windows and doors. The report summarises that the barns are in poor condition but could be converted to residential use. The roofs will need strengthening but the walls can be reused without extensive structural work. The retention of the walls and the sympathetic conversion retaining the main features of the barns would preserve the important unlisted buildings by establishing a viable future use.

### **2. Design and layout**

It is proposed to convert the buildings into 2 x 2 bedroom dwellings with parking in the courtyard to the front of the dwellings. Part of the garden to The Elms directly to the rear of the application site will be divided to provide private amenity space for each dwelling, with the remaining garden continuing to serve The Elms. The development will provide secure cycle storage and bin storage on site. It is considered that the development will provide adequate facilities to comply with the requirements of policy DM14 of the LP3 DMP in respect of design of housing. The dwellings exceed the minimum space standards required by policy DM15 of the LP3 DMP (superseded by the Government's national space standards).

The proposal will re-use the existing buildings and keep the same footprint, scale and massing and will have a similar appearance within the street scene as the existing buildings. The design utilises existing openings for windows and doors and minimises any new openings required. The number of

roof lights to be installed has been reduced, with no roof lights on the roof slope facing the road. A schedule of works has been provided which states that the walls will be retained but will need re-rendering, the roof will need re-slating, and there will a requirement to replace some of the timbers. Double glazed timber windows will be installed. It is recommended that a detailed schedule of works and details of materials are conditioned to ensure the character of the building is retained.

The proposal will provide 2 new dwellings in an accessible location within the Willand settlement boundary with adequate facilities and amenities for future residents. The proposal is considered to comply with policy DM2 of the LP3 DMP (high quality design) in respect of the design of the dwellings and the layout of the site.

### **3. Effect on heritage assets**

The buildings are not listed but are considered to be unlisted heritage assets within the Willand conservation area. The original scheme for 3 dwellings has been amended following consultation with the Mid Devon conservation officer and taking into account comments from Willand Parish Council.

The proposal has now been reduced to 2 dwellings. A number of roof lights on the road elevation have been removed and the design reconfigured internally to limit the number of new window openings required.

The Mid Devon conservation officer has commented:

It is clear from the structural engineers report that a significant amount of repair and rebuilding will be required particularly of the roofs. The application is lacking in detail as to the extent of works proposed and the materials/ finishes to be used. There are no details of any windows apart from a description as timber framed or of any of the now 8 roof lights proposed. Similarly there are no indications of any heating so it is unclear if there will be chimneys or flues; rainwater goods etc.

The 4 parking spaces for the units will be in the courtyard; it is unclear how this will be done. Will there be surfacing of the courtyard or formal spaces marked and allocated? Both units now have allocated gardens to the rear. Boundary treatments need to be defined.

In spite of their generally poor condition the group of buildings make a positive visual contribution to the Willand Conservation Area. There is still a lack of information about materials and finishes as well as a lack of detail on rainwater goods and heating that could result in flues etc be required and these will also have a visual impact depending on type and location. Whilst the number of roof lights has been slightly reduced the overall visual impact of 8 roof lights on the building is still a concern.

If unit one did not have a second staircase one of the bedrooms would be able to use an existing window opening. The roofs are currently unbroken. Formalisation of the courtyard would detract from the rural character of the courtyard. The conversion to 2 units is an improvement on the initial scheme but the detailing still requires a large number of roof lights to enable use of the loft areas and possible issues with parking in the courtyard.

No objection in principle to conversion of these important unlisted buildings to residential use but concerns remain as set out above.

Since the conservation officer's comments, the internal layout has been reconfigured to remove the second staircase and two roof lights. Details of windows, materials, rainwater goods and any flues could be conditioned for approval. Similarly, treatment of the courtyard area and boundaries could also be conditioned. It is important that the courtyard is not divided and removal of permitted

development for extension and alteration of the barns and the installation of fences, gates, sheds, etc will be required.

Overall, subject to detailing, the development is considered to maintain the character and appearance of the conservation area and not to harm the unlisted heritage assets, in accordance with policy COR2 of the Mid Devon Core Strategy which requires development to preserve Mid Devon's historic environment and policy DM27 of the LP3 DMP which requires development proposals likely to affect heritage assets and their settings to consider their significance, character, setting and local distinctiveness, as opportunities to enhance them, any harm being weighed against public benefit.

#### **4. Access and parking**

The existing access into the courtyard serving the barns is to be retained and used for amenity space and parking for 4 cars for the two new dwellings. The courtyard is currently used for parking for The Elms. Visibility at the access is sub-standard; however, there would not be a significant increase in traffic using the access with the provision of 2 dwellings, over the current use of the courtyard for the parking cars for The Elms and its annexe.

To replace the parking provision for The Elms and its annexe, 4 new parking spaces would be provided to the rear of The Elms accessed via a different existing access to the north-east of The Elms. Visibility at this existing access is poor and improved visibility will be provided by the provision of a "build out" to meet Highway Authority requirements. It is recommended that details of the build out are conditioned for approval by the Highway Authority and the parking and access completed before the new dwellings are brought into use. Subject to this, the Highway Authority does not object to the access arrangements and these are considered to be in accordance with policy DM2 of the LP3 DMP which requires new development to be safe and accessible.

Concern has been raised about the size of the parking spaces and the number of parking spaces to be provided.

The parking spaces meet the size standard required by Devon County Council's highway standing advice and the parking. Policy DM8 of the LP3 DMP requires that dwellings have a minimum of 1.7 parking spaces per dwelling (which on smaller sites means that 2 parking spaces per dwelling will be required). The proposal provides 2 parking spaces for each of the 2 new dwellings, as well as replacing lost parking for The Elms with 4 new parking spaces to serve The Elms and its annexe.

Concern has also been raised with regard to the ability to turn vehicles on site. The applicant has provided drawings to demonstrate how the parked vehicles are able to turn on site. Whilst this involves a convoluted manoeuvre for the 2 parking spaces serving the unit closest to the road, turning on site is possible and turning for the other 6 spaces is easily achieved. The Highway Authority does not object to the parking arrangements and the facilities are considered to be broadly consistent with policy DM8 of the LP3 DMP which sets minimum parking spaces and the associated SPD on parking which adds further detail to the policy.

Concern has also been raised that there is no pavement along the stretch of road outside the application site and parked cars would block visibility at the access. There is a pavement on the opposite side of the road which is likely to be used by pedestrians walking down Willand Old Village. The access to the site is already in use. Visibility to the access serving the additional 4 parking spaces for The Elms is to be approved to Highway Authority requirements. Whilst there is no guarantee that residents of the development will not have more than two cars per dwelling, or that they will use their allocated parking spaces, the provision of parking accords with relevant planning policy. There are no restrictions on the road and parking is permitted on either side already. There is no reason to assume that the provision of 2 dwellings with their own allocated parking will exacerbate the

on road parking provision to an unacceptable degree sufficient to refuse planning permission.

#### **5. Effect on privacy and amenity of neighbouring residents**

Concern has been raised with regard to the development negatively affecting the privacy of the occupiers of 5 Townlands. There is a terrace of 4 houses to the rear of the site which includes 5 Townlands. There is a distance of approximately 29 metres between the nearest part of the buildings to be converted and the rear elevations of those dwellings. Only one window is proposed in the elevation of the new dwelling facing towards Townlands at this would be at ground floor level with hedging between the properties. The development is not considered to have an unacceptable effect on the privacy of the occupiers of the terrace, in accordance with policy DM2 of the LP3 DMP which requires that there should be no unacceptably adverse effects on the privacy and amenity of neighbouring properties.

The closest dwelling to the site is to the north west and is known as Elmscroft. Windows in the front elevation of Elmscroft face towards the building to be converted with approximately 15 metres between this dwelling and the building to be converted. It is proposed to install 2 ground floor windows to serve a living room and kitchen in the part of the building closest to Elmscroft facing towards that dwelling. However, there are trees to the front of Elmscroft which would help filter views and it is not considered that there would be an unacceptable loss of privacy to the occupiers of Elmscroft sufficient to refuse planning permission, in accordance with policy DM2 of the LP3 DMP.

Concern has been raised with regard to the visibility splay for The Elms taking in land owned by the Townlands Estate. The applicant has confirmed that no land owned by the Townlands Estate is required to provide the necessary visibility.

#### **6. Ecology**

The applicant has submitted bat survey reports with the application which have confirmed that the buildings are used by a number of different bat species in the form of day roosts and a possible breeding site for whiskered bats. Works to convert the building will result in the loss of identified bat roosts and a Natural England European Protected Species Licence will be required in order to approve the mitigation before conversion takes place. Mitigation in respect of replacement roost provision will require a bat loft to be incorporated into the building (noted as "void" on the plans) for certain bat species and bat boxes and crevices within the walls will be provided for other species. The work will need to be timed to avoid unnecessary disturbance to the bats, mitigation and timings to be approved by Natural England. Works will also need to take place outside the bird nesting season (or with additional precautions) in order to avoid disturbance to nesting birds. Compliance with the recommendations in the bat survey report should be conditioned. Subject to mitigation being incorporated into the build, the development is considered to be in accordance with the National Planning Policy Framework in respect of protected species.

#### **7. Section 106 and other financial considerations**

Policy AL/IN/3 of the AIDPD and the SPD on the provision and funding of open space through development require a financial contribution towards the off-site provision of public open space and play areas as demand for these facilities is likely to increase with the provision of new dwellings. The applicant has been requested to make a financial contribution of £2,608 in respect of the refurbishment of Chestnut Play Area, Willand.

Air quality in parts of Cullompton is poor and the Council has an adopted Air Quality Action Plan which sets out different measures which are proposed in order to improve air quality in the town. The provision of the dwellings in Willand would worsen the existing air quality issues as traffic is highly likely to pass through Cullompton. To mitigate this, a financial contribution of 10,436 has been

requested towards the provision of secure cycle parking in Cullompton to encourage cycling within and from outside the town. The payment is considered to be in accordance with policy AL/CU/15 of the AIDPD and the Air Quality and Development SPD.

The applicant has not yet paid these contributions, however, has confirmed that the payments will be made. These will need to be made before the decision is issued, if the application is approved.

The proposed dwelling 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 last year, the award for each house would be £1,028 per year. Assuming completion in 2017/18 the award would be paid over a period 5 years, amounting to £10,280. If completion takes place in 2018/19, the period would be reduced to 4 years, amounting to £8,224.

## **CONDITIONS**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

2. The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice.

3. No development shall take place until a detailed schedule of works for the conversion of the buildings has been submitted to and approved in writing by the Local Planning Authority. The schedule of works should include:

(a) details of any demolition or removal of any building fabric and any rebuilding or repairing works;

(b) details of all measures required to support any wall, floor, roof or other vertical or horizontal surface;

(c) details of measures required to provide protection for the buildings against the weather during the conversion works.

The agreed schedule shall be strictly adhered to.

4. The development hereby permitted shall be carried out in accordance with the recommendations and mitigation detailed in the submitted Bat Survey Report dated August 2016 by Blackdown Environmental.

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

6. No dwelling hereby approved shall be first occupied until the parking and turning arrangements for the new dwellings shown on drawing number SLPL/100/02 have been provided, surfaced and drained in accordance with details (to include details of the surfacing of the entire courtyard area) that shall have been previously submitted to and approved in writing by the Local Planning Authority. Once provided, such parking and turning facilities shall be so retained and maintained for that purpose.

7. No dwelling hereby approved shall be first occupied until the replacement parking and turning arrangements for the dwelling known as The Elms shown on drawing number SLPL/100/02 have been provided, surfaced and drained in accordance with details that shall have been previously submitted to and approved in writing by the Local Planning Authority. Once provided, such parking and turning

facilities shall be so retained and maintained for that purpose.

8. No dwelling hereby approved shall be first occupied until the off-site highway works to build out the access to The Elms to meet the highway, indicated on drawing number SLPL/100/02, have been completed and made available for use, in accordance with details which shall previously have been submitted to and approved in writing by the Local Planning Authority. Once provided such off-site highway works shall be so retained and maintained.

9. Before their use on the development hereby permitted, details/samples of all external materials, windows, doors, roof lights and rainwater goods shall be submitted to and approved in writing by the Local Planning Authority. Only such approved materials, windows, doors, roof lights and rainwater goods shall be used on the development.

10. Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), or any Order revoking and re-enacting that Order with or without modification, no development of the types referred to in Classes A, B, C, D, E and G of Part 1 of Schedule 2 relating to the alteration and extension of a dwelling or its roof, the addition of chimneys and flues and the provision of buildings within the curtilages of the dwellings and Class A of Part 2 of Schedule 2 relating to the provision of gates, walls, fences, shall be undertaken within the dwelling curtilages without the Local Planning Authority first granting planning permission.

#### **REASONS FOR CONDITIONS**

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

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

3. To ensure that character of the unlisted heritage asset is retained during and after the conversion works and to ensure that adequate arrangements are in place to protect the building during conversion works in accordance with policy DM27 of the Mid Devon Local Plan Part 3 (Development Management Policies).

4. To minimise the impact on protected species in accordance with the National Planning Policy Framework.

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

6. In order to ensure appropriate parking and turning facilities are provided in the interests of highway safety and the courtyard area retains the character of the unlisted heritage asset and conservation area, in accordance with policies DM2 and DM27 of the LP3 DMP.

7. In order to ensure appropriate parking and turning facilities are provided in the interests of highway safety, in accordance with policy DM2 of the LP3 DMP.

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

9. To ensure that character of the unlisted heritage assets and conservation area is retained during and after the conversion in accordance with policy DM27 of the Mid Devon Local Plan Part 3 (Development Management Policies).

10. In order to protect the character of the unlisted heritage asset and the visual amenities of the conservation area, in accordance with policy DM27 of the Mid Devon Local Plan Part 3 (Development Management Policies).

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

The proposal is considered to be acceptable in that the principle of minor residential developments within settlement boundaries is acceptable. The development is considered to be appropriately designed to retain the character of the original unlisted heritage assets and not to harm the Willand conservation area. The parking and amenity provision is considered to be acceptable and to meet minimum parking standards. Replacement parking is being provided for The Elms where this would be lost through the development of the buildings. The existing access is considered to be acceptable for the provision of 2 new dwellings, bearing in mind the existing use of the courtyard, and the improvements to the access to The Elms and its replacement parking are considered to meet Highway Authority requirements. Subject to mitigation, the development would not have an unacceptable impact on protected species. In addition, the proposal is not considered to have an unacceptable impact on the privacy and amenity of neighbouring residents. The applicant has agreed to make a financial contribution towards public open space and air quality improvements and the development would attract the payment of a New Homes Bonus. The proposal is considered to be in accordance with policies: COR2 and COR11 of the Mid Devon Core Strategy, AL/IN/3 and AL/CU15 of the AIDPD and DM2, DM8, DM14, DM15 and DM27 of the LP3 DMP, and the NPPF.

The Human Rights Act 1998 came into force on 2<sup>nd</sup> 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. 17/01726/FULL

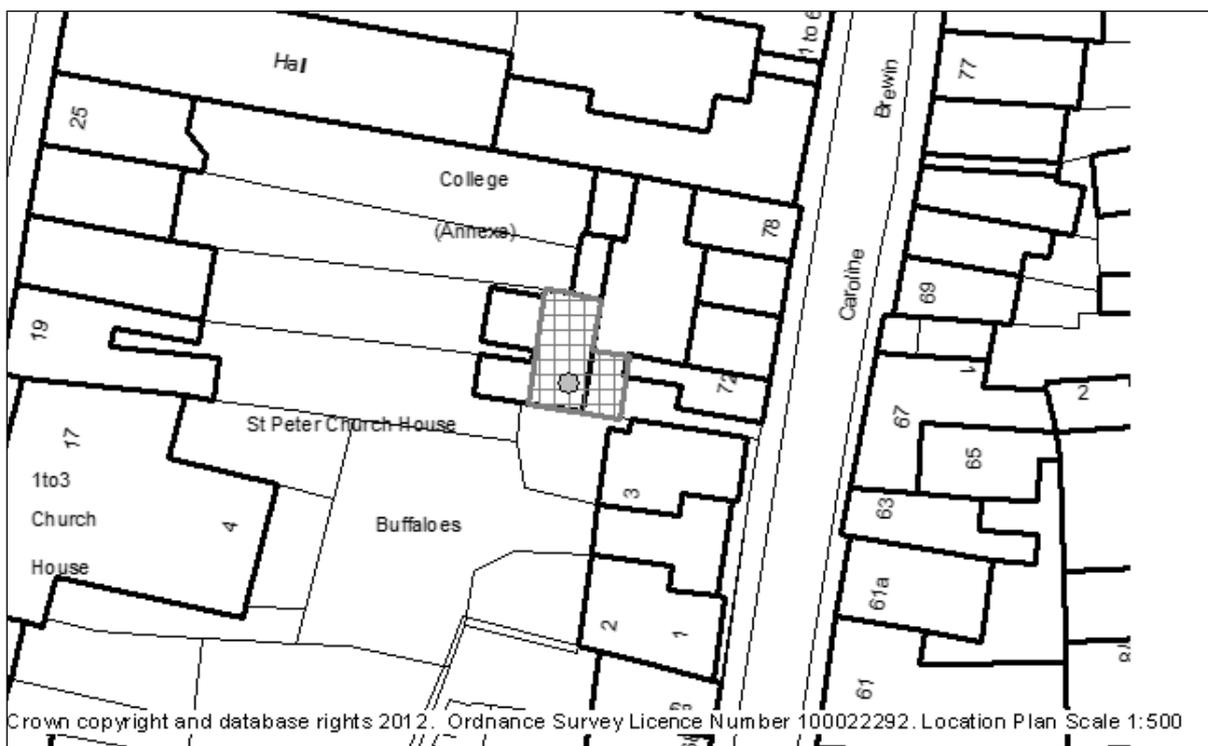
Grid Ref: 295597 : 112859

Applicant: Mrs Nicola Nicholson

Location: 72 Bampton Street  
Tiverton  
Devon  
EX16 6AL

Proposal: Conversion of an existing workshop/barn to form a dwelling

Date Valid: 15th November 2017



**APPLICATION NO: 17/01726/FULL**

**MEMBER CALL-IN**

Councillor Brenda Hull has called this into committee for the following reason:

For the Planning Committee to consider whether the building is of a suitable size for conversion for a single person to occupy.

**RECOMMENDATION**

Refuse permission

**PROPOSED DEVELOPMENT**

Conversion of an existing workshop/barn to form a dwelling at 72 Bampton Street, Tiverton.

**APPLICANT'S SUPPORTING INFORMATION**

Plans

Design and Access Statement

Wildlife and Geology Trigger Table and Addendum

Letter regarding building integrity

**RELEVANT PLANNING HISTORY**

**17/00584/PREAPP** - CLO date 6th June 2017

PROTECT - Proposed conversion of outbuilding to studio apartment

**DEVELOPMENT PLAN POLICIES**

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

COR1 – Sustainable Communities

COR2 – Local Distinctiveness

COR3 – Meeting Housing Needs

COR9 – Access

COR13 – Tiverton

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

AL/IN/3 – Public Open Space

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

DM2 – High Quality Design

DM8 – Parking

DM11 – Conversion of Rural Buildings

DM14 – Design of Housing

DM15 – Dwelling sizes

### **CONSULTATIONS**

Tiverton Town Council – 5th December 2017 – Support

Highway Authority – 4<sup>th</sup> December 2017 – Standing advice relating to safe pedestrian movement and well lit, overlooked paths (3.6).

DCC Archaeology - 14th December 2017 - Assessment of the Historic Environment Record (HER) and the details submitted by the applicant do not suggest that the scale and situation of this development will have any impact upon any known heritage assets. No comments.

Environmental Health – 4<sup>th</sup> December 2017 – The proposed development may be on land affected by contamination, recommend conditions for investigation and remediation. Recommend a condition for the timing of works to control noise and other nuisances, to protect the amenity of neighbouring properties.

### **REPRESENTATIONS**

Three letters of objection have been received in conjunction with this application, they are summarised as follows:

1. The building only has 4 metres of curtilage.
2. Question how much the roof will be raised.
3. Concern over impact of the window on the boundary with 75% opening apertures.
4. Concern over existing problems with soil and surface water drainage and the increased pressures as a result of the proposal.
5. Concern about works taking place on neighbouring properties due to the boundary arrangement.
6. Concern that it will set a precedent for this type of development in the conservation area.

### **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

The main issues in the determination of this application are:

1. **Site context**
2. **Policy and procedure**
3. **Quality of Development and the amenity of future occupiers**
4. **Impact on the living conditions of the occupiers of the neighbouring properties**
5. **Access**

- 6. S106 obligations**
- 7. Effect on the character and appearance of the Tiverton Conservation Area**
- 8. Effect on protected species**
- 9. Other matters**

**1. Site context:**

The proposed development is for the conversion of an existing workshop/barn to form a dwelling at 72 Bampton Street, Tiverton. The building subject to this application is a small unused outbuilding, currently within the curtilage of number 72. The application site is to the rear of the existing dwellinghouse and is a single storey building with brick walling and a turnerised slate roof. The building forms the western boundary of the site and forms part of the northern and southern site boundaries. The site is on the western side of Bampton Street accessed via a gated pedestrian walkway between the existing dwellings on Bampton Street. There is no vehicular access to the site. It is proposed to convert the building to a one bedroom dwellinghouse, with a shower room and open plan kitchen, living, dining area. There is a small area of outside space proposed as amenity space/bin storage to the front of the building.

**2. Policy and procedure:**

Policy COR1 of the Mid Devon Core Strategy 2007 seeks to deliver sustainable development including through meeting the housing needs of all sectors of the community and delivering development of an appropriate density for the location. Policy COR13 of the same document sets out that Tiverton will increase its self-sufficiency by improving access to housing (amongst other things) with an average annual development rate of 102 market dwellings as well as reducing the risk of flooding. Policy COR2 of the Mid Devon Core Strategy 2007 seeks to sustain the distinctive quality, character and diversity of the District's environmental assets.

Local Plan Part 3 (DMP) policy DM2 requires high quality design for new development, creating safe and accessible places that are visually attractive and well integrated with their surroundings and do not have an unacceptably adverse impact upon neighbouring properties and uses. Policy DM11 of the Local Plan Part 3 (Development Management Policies) concerns conversions and supports the conversion of rural buildings that are of substantial and permanent construction which positively contribute to an area's rural character for residential, tourism or employment uses. In this instance, whilst the proposal is for a conversion, the application site is within the defined settlement of Tiverton, where the principle of housing development is accepted, as such, it is not necessary that the proposal falls within the strict conversions criteria.

Specific to new housing developments, policy DM14 of the Local Plan Part 3 (DMP) aims to ensure that new houses have suitably sized rooms with adequate levels of daylight, sunlight and privacy and are provided with private amenity space which reflects the size, location, floorspace and orientation of the property. Policy DM15 of the same document seeks to introduce minimum internal dwelling sizes; however, this has been superseded by the National Housing Standards.

Policy DM8 of the Local Plan Part 3 (DMP) sets out that new development should provide a minimum of 1.7 car parking spaces per dwelling but allows for some variation on a case by case basis dependent upon the accessibility of the site and the type, mix and use of a site.

Policy AL/IN/3 of the Allocations and Infrastructure Development Plan Document (AIDPD) seeks to provide at least 60 square metres of public open space for each new market dwelling. Where it would be more appropriate the policy provides a mechanism in accordance with the adopted Supplementary Planning Document (SPD) on this matter, for off-site financial contributions toward the provision and funding of public open space to be made.

### **3. Quality of Development and the amenity of future occupiers:**

The proposed conversion incorporates significant alterations in order to facilitate the change of use, including the removal and replacement of the roof at a higher level, the blocking up of existing openings, and the erection of a porch on the front elevation, the extent of the alterations would not normally be acceptable under policy DM11, however as the building is within the defined settlement of Tiverton where the principle of residential development is acceptable, lack of compliance with the DM11 conversions policy is not fatal to the application.

The design of the proposed dwelling is considered to be uninteresting and is not of a high quality. The proposed alterations change the proportions of this subservient ancillary building and the shallow pitched porch addition protruding from the front elevation is not sympathetic to the simple character of the outbuilding.

The proposed dwelling would have a shared kitchen, living and dining space accessed from the porch, along with a separate bedroom and ensuite shower room, shown to accommodate a double bed for two persons. Even including the porch extension proposed, the internal floor area of the building would total 31.35 square metres. The National floor space standards require that a one bedroom two person single storey dwelling, as proposed, provides 50 square metres of internal floor space. In addition, the standards set out that a one bedroom single storey dwelling for a single person with a shower room should be a minimum of 37 square metres. It is clear that the proposed dwelling falls far short of the minimum floor space standards, and is over 37% smaller than the National minimum standards. Even if a one bedroom unit for a single person was proposed, the proposed dwelling would still be in excess of 15% smaller than the minimum space standards.

Due to the very small size of the proposed dwelling, the rooms are small, with limited opportunities for storage, circulation movement, or opportunities to adapt the building to meet the future needs of occupiers. In addition, due to the building forming a site boundary on all sides, apart from part of the front elevation, all existing openings except those on the east elevation have to be blocked up. As the east elevation also forms part of a boundary to the garden of a neighbouring property, one of the two windows proposed to serve the unit will have to be obscure glazed and fixed shut. As such, the property will be served by a single window that is not obscure glazed and can be opened, along with three roof lights. There will be a limited outlook onto the very small amenity/bin storage area. Given that the property is approximately 6.5 metres from the rear two storey portion of the existing dwelling at 72 Bampton Street and 2.5 metres from the two storey neighbouring property to the south east, the building, including its windows and amenity area will be overshadowed for a large portion of the day throughout the year.

There is a small area of outside space proposed as amenity space to the front of the proposed dwelling. It is intended that this space serves as a bin and bike storage area, including the retention of the existing shed. Whilst it is positive that there is some external space, it will be dominated by its bin and bike storage function due to its small size measuring approximately 9 square metres. In addition,

this space will be bounded by a new 2.3 metre high timber fence and wall boundary treatment. Due to its very small size and the enclosed nature of the environment created in order to retain the privacy of each property, the amenity space available to serve the proposed dwelling is considered to be of a poor quality that will not be a pleasant or usable space for future occupiers.

Overall, it is not considered that the proposal comprises of a high quality development that would provide a quality living environment with adequate amenity space for future occupiers. As such, the proposal is considered to be contrary to policies DM2, DM14 and DM15 and the Technical Housing Standards – Nationally Described Space Standard.

#### **4. Impact on the living conditions of the occupiers of the neighbouring properties:**

Objections have been raised relating to the impact of the proposal on the neighbours. The main area for concern is the far window on the east elevation which will open into the neighbour's garden. Whilst the window is proposed to be obscure glazed it is proposed to open. The window is at ground floor level and is the only window serving the bedroom. Due to the location of the window on the boundary, this would result in an unacceptable loss of privacy for the occupiers of 74 Bampton Street. Despite this, it would be possible to condition that the window is fixed shut and obscure glazed; this would satisfactorily resolve this concern.

In addition, it is proposed to raise the overall roof height by 0.8 metres, raising the eaves by 0.4 metres. The change in height is not considered to result in an unacceptable impact on the amenity of the occupiers of the neighbouring properties in accordance with policy DM2.

The proposed development also has potential to impact on the privacy and amenity of the current occupiers of number 72, as the proposed shared pathway opens on to the garden area that serves number 72. This would need to be fenced in order to retain privacy, with new gates to serve both of the dwellings to ensure their respective garden areas are not openly accessible. This doesn't form part of the current proposal but could be conditioned. In addition, fencing could be provided utilising the permitted development rights available to number 72 and would make this situation acceptable. A further concern is that the development would result in over development of the dwelling curtilage, leaving 72 with only a small amenity area to serve the dwellinghouse. There is an existing division between number 72 and the outbuilding due to the dwellinghouse being separately rented, as there would be little change in practical terms to the space currently used by number 72, the intensification of the use of the outbuilding alone is not considered sufficient to form a reason for refusal.

#### **5. Access:**

Access to the site is via a locked pedestrian gateway from the public pavement on Bampton Street up a narrow shared pathway measuring 0.75-0.8 metres wide. Access is for pedestrians only, with no vehicular access possible in this location. The pathway currently provides access to the rear of 72 Bampton Street, it is understood that this will continue and that the access will be refurbished to also provide the sole access to the proposed dwelling. There is space within the site for bicycle storage and due to the town centre location, with opportunities to park and access public transport nearby. The access and a scheme with no parking in this location is considered to be acceptable in this location.

#### **6. S106 obligations:**

Policy AL/IN/3 makes clear that new housing developments will provide at least 60sqm of equipped

and landscaped public open space per market dwelling, or a contribution per dwelling in accordance with the SPD. The SPD makes clear in paragraph 14 that the scheme for collecting contributions for off-site provision applies to all new housing, including single dwellings, whether built as tied accommodation, conversions of existing buildings, flats, maisonettes or permanent mobile homes. There is therefore a clear policy justification for this contribution.

A financial contribution of £725 and a monitoring fee of £110.80 have been paid; the financial contribution has been allocated towards the provision of junior multiplay at West Exe Neighbourhood Park, Tiverton.

#### **7. Effect on the character and appearance of the Tiverton Conservation Area:**

The application site is located within the Tiverton Conservation Area. The building was probably used as a workshop, dairy or other ancillary function, dating from the late 19th century or the very early 20th century. Whilst there are some concerns about this back land form of development which deviates from the traditional pattern of development in Tiverton, there is no visual relationship with public vantage points in the conservation area. On this basis, the application is not considered to detrimentally impact on the character and appearance of the conservation area, in accordance with policy DM27.

#### **8. Effect on protected species:**

The proposed development includes works to remove and replace the existing roof of the building. As the works involve the roof, the submitted Wildlife Trigger Table indicates that an ecology report must be submitted by a suitably qualified ecologist. Although an addendum to the trigger list has been submitted by the applicants, there is not an ecological report by a qualified person to support the application. On this basis, insufficient information has been submitted to consider the potential impacts of the development on protected species. Without this information the Local Planning Authority cannot be satisfied that its duty to conserve biodiversity and its obligations to have regard to the legislation protecting bats and other protected species has been discharged. On the basis of the insufficient information provided, it isn't possible to assess whether the proposed development adequately retains the nature conservation interest associated with the site and the application therefore fails to meet with the requirements of policies COR2, DM2 and DM11.

#### **9. Other matters**

It is proposed to dispose of foul sewage and surface water using the mains sewer, utilising the existing infrastructure to the site, subject to its suitability. This is considered acceptable in these circumstances given that there will be no additional impermeable areas introduced to facilitate the proposal.

### **REASONS FOR REFUSAL**

Refuse permission for the following reasons:

1. In the opinion of the Local Planning Authority, the proposal does not comprise of a high quality development that would provide a quality living environment and adequate amenity space for future occupiers. The proposed dwelling is insufficient in size, providing only 31.35 square metres of internal floor space for a 1 bedroom 2 person single storey unit, falling far short of the National Space Standards; as a result the space available for movement, storage, and future adaptation of the building is inadequate. In addition, the proposal is not considered to result in adequate levels of amenity in terms of the levels of daylight and sunlight to principle windows. As such, the proposal is considered to

be contrary to policies DM2, DM14 and DM15 Local Plan Part 3 (Development Management Policies) and the Technical Housing Standards – Nationally Described Space Standard.

2. In the opinion of the Local Planning Authority, insufficient information has been submitted in relation to ecology, in order to adequately consider the impacts of the proposed development. A completed Wildlife Trigger Table has been submitted in support of this application indicating that the proposal involves works to a roof and therefore a wildlife report must be submitted with the application. Although a report has been submitted, this has not been produced by a consultant with suitable qualifications and experience. On this basis, the Local Planning Authority is not satisfied that sufficient information has been submitted in order to consider the impacts on protected species and the nature conservation interests of the site. In addition, the Local Planning Authority cannot therefore be satisfied that its duty to conserve biodiversity and its obligations to have regard to the legislation protecting bats and other protected species has been discharged. On the basis of the insufficient information provided, it isn't possible to assess whether the proposed development adequately retains the nature conservation interest associated with the site and the application therefore fails to meet with the requirements of policies COR2 of the Mid Devon Core Strategy, DM2 and DM11 of the Local Plan Part 3 (Development Management Policies).

The Human Rights Act 1998 came into force on 2<sup>nd</sup> 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	2	03/04/2018	17/02020/MFUL	Erection of building comprising 44 retirement apartments with associated communal lounge, manager's office, guest suite, rechargeable electric buggy store, car parking, sub-station, and landscaping	Astra Printing and Crown Works Site Willand Road Cullompton Devon EX15 1AP	Mrs Alison Fish	DEL	
2	6	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	
	9	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	
	10	06/02/2018	17/01713/MFUL	Construction of an earth bank slurry story (1980 sq. m)	Land at NGR 309064 110450 (Allhallows Farm) Blackborough Devon	Mr Daniel Rance	DEL	
5	13	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
6	16	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	17	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	17	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 No.</i>	<i>Weeks</i>	<i>TARGET DATE</i>	<i>REFVAL</i>	<i>PROPOSAL</i>	<i>LOCATION</i>	<i>NAME</i>	<i>Expected Decision Level</i>	
							<i>Delegated</i>	<i>Committee</i>
9	19	04/12/2017	17/01359/MOUT	Outline for the erection of 60 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	21	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	22	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	24	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	24	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	26	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	28	04/10/2017	17/01090/MOUT	Outline for the erection of up to 40 dwellings with associated access, parking, open space, landscaping and supporting infrastructure	Land and Buildings at NGR 281938 100425 (Adjacent Brookdale, Threshers) Hollacombe Devon	Miss Helen Govier	COMM	COMM
16	29	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	30	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	33	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

<i>Item No.</i>	<i>Weeks</i>	<i>TARGET DATE</i>	<i>REFVAL</i>	<i>PROPOSAL</i>	<i>LOCATION</i>	<i>NAME</i>	<i>Expected Decision Level</i>	
							<i>Delegated</i>	<i>Committee</i>
19	38	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
20	45	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
21	51	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
22	61	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
23	63	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

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## LIST OF APPEAL DECISIONS FROM 20.12.2017 to 17.01.2018

Application No	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
17/00453/FULL	Erection of 4 dwellings following demolition of existing dwelling and formation of new accesses (Revised Scheme)	The Firs Higher Mill Lane Cullompton Devon EX15 1AG	Refuse permission	Delegated Decision	Refuse permission	Written Representations	Appeal Dismissed
17/00474/OUT	Outline for the erection of a dwelling and garage	Holes Cottage Bary Close Cheriton Fitzpaine Credton Devon EX17 4JH	Refuse permission	Delegated Decision	Refuse permission	Written Representations	Appeal Allowed

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## PLANNING COMMITTEE 31<sup>ST</sup> JANUARY 2018

### REPORT OF THE HEAD OF PLANNING, ECONOMY AND REGENERATION

#### PRE-APPLICATION PLANNING ADVICE SERVICE

**Cabinet Member:** Cllr Richard Chesterton  
**Responsible Officer:** David Green, Group Manager for Development

**Reason for Report:** To consider revised arrangements for our customers to gain pre-application advice from the Planning Service in terms of fees for advice.

#### RECOMMENDATION:

1. That the revisions to the pre-application advice service as set out in this report and Appendix 1 be agreed and come into force on the 17<sup>th</sup> February 2018 and that the guidance document is updated accordingly.

**Relationship to Corporate Plan:** Planning decision making is relevant to key objectives within the Corporate Plan of thriving economy, better homes, empowering our communities and caring for our environment.

**Financial Implications:** The provision of pre application advice is a discretionary customer service that also acts as an income stream for the Planning Service to recover the costs of providing the service. The cost of providing the service in terms of staff time and resources must be balanced against the value of providing a service to customers and the income received.

**Legal Implications:** As with existing pre-application advice, the scheme will need to continue to make it clear that the advice given is made in good faith, is not a guarantee that a particular decision will be made and is not binding on the Local Planning Authority in the event of an application being made.

**Risk Assessment:** The scheme sets out clear timescales for the receipt of a reply and what form that reply will take. It also clarifies the extent of the advice and number of meetings offered. The Planning Service needs to be able to resource this level of service in order to ensure the success of the scheme. If service levels are not met, applicant expectations will not be met and it will have a detrimental effect on the working relationship with agents and applicants.

**Equalities Assessment:** As part of the Council's commitment to equalities and diversity, discretionary service changes such as this need to have regard to their potential impact upon the strands of age, gender, transgender, disability, religion / belief, sexual orientation, pregnancy / maternity, race / ethnicity, marital status and socio-economic status. These strands have been taken into account in the development of the changes to the pre-application advice service. It is not considered that the changes will have a negative impact upon them with the exception of socio-economic status. The introduction of a fee or increase in an existing fee could disadvantage those with lower income. However some general advice will still be available, can also be gained from other sources such as the Planning Portal and in some instances from Planning Aid. This will mitigate this potentially negative impact. Advice in relation to facilities for the disabled will also still be free.

#### 1.0 INTRODUCTION

- 1.1 A system for prospective developers to gain pre-application planning advice incorporating a charge was introduced in May 2010, together with the details of standards of service. It was reviewed in March 2014 and December 2015 at which time changes were made to categories of development and associated charging. Pre-app discussions are encouraged by the NPPF. And the Council may charge for providing discretionary services under section 93 of the Local Government Act 2003, but such charges must not exceed the costs of providing the pre-application advice service from one financial year to the next. This report seeks to update the approach to charges for pre-application advice to reflect the Government's recent 20% increase in planning fees and to assist in cost recovery for

the planning service. This increase is based on the experience of operating a chargeable service since June 2014 and to reflect the approach of the Government to increase planning fees to ensure planning teams are better resourced.

1.2 The costs referred to in this document relate only to advice provided by Mid Devon District Council Planning and Conservation officers.

## **2.0 BACKGROUND: ADVANTAGES OF THE SERVICE.**

2.1 The Planning Service provides advice to our customers at an early stage in the development process and before a planning application is submitted. Such advice is considered vital and is encouraged wherever possible. The advantages of providing this service are as follows:

- i) Our customers have the ability to discuss their proposals early on and before the details have been established. The input of planning guidance at this stage gives customers more certainty about how their proposal is likely to be received and allows for schemes to be amended in accordance with advice in order to overcome difficulties and ensure the application deals with important planning issues. A proportion of proposals do not progress beyond this stage as a result of advice gained.
- ii) Pre-application advice also provides guidance on what information is required to be submitted with the application in order for it to be valid and for the proposal to be fully justified. Applicants also are advised on the likely policy implications, the level of any S106 requirements / financial contributions. Where relevant, the Local Planning Authority can also coordinate pre-application advice with the main consultees (both internal and external) using a development team approach.
- iii) It improves the quality of applications so that the Council's environmental and other planning objectives can be met. Early knowledge of proposals allows future workloads to be understood in order to ensure that there is sufficient capacity to deal with it.
- iv) High quality, comprehensive applications assist the Council to deal with proposals within statutory timescales. It also allows Parish and Town Councils and the public to understand what is being proposed and its implications for the locality.
- v) Comprehensive pre-application guidance improves customer care and satisfaction with the service.

2.2 Where no charge is made, the cost of resourcing pre-application advice has been borne by the service.

## **3.0 BACKGROUND: THE FRAMEWORK OF THE SERVICE.**

3.1 Important considerations in the operation of a successful scheme are as follows:

- i) A clear structure to this service ensuring the delivery of high quality, timely and comprehensive advice.
- ii) Clear guidance on what information the customer is required to submit by way of drawings and background information when requesting advice.
- iii) What the customer can expect to receive from the Planning Department in relation to number of meetings (if requested), format and timescale of response.
- iv) Justification for making a change to the level of charge for this service. An easy to understand payment scale together with information on how and when payment is to be made. The proposed fees have been based upon an estimate of the time taken to deal with the query and hence the cost to the Council of providing the service.

Benchmarking has also taken place against the fees charged by other authorities in the area.

- v) The types / scale of proposal for which a charge for advice will be made and identification of instances where advice will continue to be offered free.
- vi) The need to balance the resources needed to offer the service with the income received and with other work areas within Development Management.
- vii) That opportunity is given for elected members to be involved at this stage in the planning process.

Detailed guidance on the operation of the pre-application advice service is available on the Council's website. This report only seeks to amend the associated fee-scale, which is attached at **Appendix 1** to this report.

- 3.2 A risk of operating the pre-application advice service is that it can be very resource heavy in terms of staff time especially over a period of staff changes, challenging workloads and competing work priorities. A time recording exercise in 2012 gave useful data on the amount of staff time taken to resource the pre-application advice service, the associated cost and the income received. These results indicated that the income received through the pre-application fee was a small percentage of the cost of resourcing the service. The Planning Service was therefore providing advice as a subsidised, customer service, rather than on a cost recovery basis. The previous review of the service in early 2014 moved closer towards reflecting the cost of delivery of the pre-application service for different development types and scales in the proposed fees. The current proposal seeks a further review to these charges following the Government's recent increase in planning fees in order to ensure that the provision of this service is adequately resourced and paid for by the associated fee.

#### **4.0 THE PROPOSAL: INCREASING THE CHARGES FOR PRE-APPLICATION ADVICE BY 20% IN LINE WITH THE GOVERNMENT'S RECENT 20% INCREASE IN PLANNING FEES.**

- 4.1 Following the campaigning of councils and the Local Government Association to better resource our planning teams, the Government has stated that an increase in planning fees is needed to ensure that Local Planning Authorities have sufficient funds to deliver developments in an efficient and proactive manner. National planning fees rose by 20% as of 17<sup>th</sup> January 2018. In line with central government's philosophy it is considered appropriate to apply the same increase to pre-application charges so that this important service reflects the government's recent increase in planning fees and purpose in supporting the cost of delivering the planning service.

#### **5.0 CONTINUED SOURCES OF FREE OR SUBSIDISED PLANNING ADVICE.**

- 5.1 A range of free planning advice continues to be available from other sources such as the Council's web site ([www.middevon.gov.uk](http://www.middevon.gov.uk)) the Planning Portal ([www.planningportal.co.uk](http://www.planningportal.co.uk)) and through Planning Aid England ([advice@planningaid.rtpi.org.uk](mailto:advice@planningaid.rtpi.org.uk)). In addition, Planning Officers will also still offer brief, general advice by phone. Where written advice is requested or considered appropriate, the fees will apply in accordance with the proposal type, floorspace or site area. A prospective applicant is also able to seek 'paid for' planning advice from a range of planning consultancies.

- 5.2 Areas where the Council's pre-application advice is still proposed to be exempt from a fee, or where a lower rate will be charged are as follows:

- i) Heritage / Listed Building Consent advice relating to repair or maintenance only.
- ii) Planning matters in relation to an enforcement issue (with the exception of a request for confirmation of compliance with an enforcement notice for which there will be a charge). Note – Charges made at the discretion of the Council in connection with planning enforcement are currently under separate review.

- iii) Proposals by charities and by Parish or Town Councils on land that they control or will seek to acquire.
- iv) 100% affordable housing schemes will be charged at 50% of the normal pre-application fee.
- v) The first meeting following the refusal of a planning application is also to be offered free and will apply to all application types and scales.
- vi) The Local Planning Authority will not charge for issuing planning advice or discussions / meetings with local residents who may potentially be affected by a development proposal.
- vii) Facilities for the disabled.

## 6.0 CONCLUSIONS.

- 6.1 Pre-application advice is a vital service offered by the Planning Service. Historically it has been provided on a basis where its cost in terms of staff resource has been heavily subsidised. Previous reviews of the scheme have sought to help address this by balancing the cost of delivering this service with the income it generates. This further review reflects the most recent national changes to the planning fees and the need to adequately fund and resource service delivery. Opportunity has also been taken previously to review service standards and what information is required from the applicant. The fee schedule and charging categories have also been reviewed together with guidance to accompany the scheme.
- 6.2 This report identifies that the current cost of the advice service is not reflective of the Government's recent increase in planning fees. It is proposed to amend the scale of fees as set out in **Appendix 1**.
- 6.3 It is recommended that the scheme is reviewed after 6 months. This will allow an opportunity for customer feedback, consideration of the results of monitoring of requests for advice and reporting of the impact of resourcing the scheme, in particular whether its service standards have been met.

<b>Contact for any more information</b>	David Green Group Manager for Development <a href="mailto:dgreen@middevon.gov.uk">dgreen@middevon.gov.uk</a> 01884 234348
<b>Background Papers</b>	Planning Committee 6th January and 31st March 2010, 6th November 2013, 5 <sup>th</sup> March 2014, 2nd December 2015
<b>File Reference</b>	None.
<b>Circulation of the Report</b>	Members of Planning Committee, Cllr Richard Chesterton.

<b>PRE-APPLICATION ADVICE SERVICE</b> Type of development.	<b>Fee</b> (incl VAT) <b>(Fee from 17<sup>th</sup> February 2018 in bold and brackets).</b>	<b>Additional fee</b> (incl VAT) <b>(Fee from 17<sup>th</sup> February 2018 in bold and brackets).</b>
<b>1. LARGE SCALE MAJOR</b>  Residential >150 houses or site area >4ha; Non residential 10,000 sq m floorspace or site area >4 ha; All Environmental Impact Assessment development	£1000 ( <b>£1200</b> ) (up to 3 meetings)	£400 ( <b>£480</b> ) (each additional meeting)
<b>2. MEDIUM SCALE MAJOR</b>  Residential 31-149 houses or site area 2 – 4ha; Non residential 5,000 – 9,999 sq m floorspace or site area between 2-4ha	£650 ( <b>£780</b> ) (up to 2 meetings)	£300 ( <b>£360</b> ) (each additional meeting)
<b>3. SMALL SCALE MAJOR</b>  Residential 10-30 houses or site area up to 2ha; Non residential 1,000 – 4,999 sq m floorspace or site area between 1-2 ha	£400 ( <b>£480</b> ) (up to 1 meeting)	£200 ( <b>£240</b> ) (each additional meeting)
<b>4. MINOR</b>  Residential proposals (including holiday lets) involving the erection of or change of use to between 3 – 9 residential units; Non residential 500 – 1,000 sq m floorspace;	£300 ( <b>£360</b> ) (up to 1 meeting)	£150 ( <b>£180</b> ) (each additional meeting)
<b>5. SMALL MINOR</b>  All residential schemes for the replacement, change of use or erection of 1 or 2 dwellings (or holiday lets) or conversion of building(s) to 1 or 2 residential units (or holiday lets); All minor non residential schemes for new buildings; Non residential 200 – 499 sq m floorspace	£150 ( <b>£180</b> ) (up to 1 meeting)	£50 ( <b>£60</b> ) (each additional meeting)
<b>6. OTHER</b>  Advertisements; Telecommunications; Changes of use (except residential / holiday let)	£100 ( <b>£120</b> ) (up to 1 meeting)	£50 ( <b>£60</b> ) (each additional meeting)
<b>7. WIND TURBINES</b>  Height to tip: 25m or less 26-75m	Up to 3 meetings  £550 ( <b>£660</b> ) £800 ( <b>£960</b> )	Each additional meeting  £200 ( <b>£240</b> ) £300 ( <b>£360</b> )

More than 75m (Where Environmental Impact Assessment is needed, the charge will be at the large scale major rate)	£1000 ( <b>£1200</b> )	£400 ( <b>£480</b> )
<b>8. GROUND MOUNTED SOLAR PV AND THERMAL</b>  Domestic (if planning permission required) Less than 1 ha (2.5 acres) 1 to 10 ha (2.5– 25 acres) Over 10 ha (25 acres) (Where Environmental Impact Assessment is needed, the charge will be at the large scale major rate)	Up to 3 meetings  £80 ( <b>£96</b> ) £550 ( <b>£660</b> ) £800 ( <b>£960</b> ) £1000 ( <b>£1200</b> )	Each additional meeting  £40 ( <b>£48</b> ) £200 ( <b>£240</b> ) £300 ( <b>£360</b> ) £400 ( <b>£480</b> )
<b>9. ANAEROBIC DIGESTERS</b>  <b>On farm (single farm feedstock source)</b> <b>On farm (multiple farm or mixed agricultural &amp; non-agricultural feedstock source)</b> <b>Off farm / non-agricultural commercial</b> (Where Environmental Impact Assessment is needed, the charge will be at the large scale major rate)	Up to 3 meetings  £300 ( <b>£360</b> ) £550 ( <b>£660</b> ) £1000 ( <b>£1200</b> )	Each additional meeting  £150 ( <b>£180</b> ) £200 ( <b>£240</b> ) £400 ( <b>£480</b> )
<b>10. Written confirmation that an enforcement notice has been complied with.</b>	£100 ( <b>£120</b> )	£50 ( <b>£60</b> )
<b>11. Householder applications</b>	£80 ( <b>£96</b> )	£40 ( <b>£48</b> )
<b>12. Listed Building / heritage</b> <b>a. Repair /maintenance only</b> <b>b. Enhancement / added value:</b> In principle, no visit Detailed with visit	FREE  £75 ( <b>£90</b> ) £150 ( <b>£180</b> )	FREE  £50 ( <b>£60</b> ) £50 ( <b>£60</b> )
<b>13. Lawful Development Certificate advice</b>	£50 ( <b>£60</b> )	£50 ( <b>£60</b> )
<b>14. Planning matters relating to an enforcement issue</b> (other than written confirmation that an enforcement notice has been complied with – see 10 above).	FREE	FREE
<b>15. Registered charities and Town and Parish Council proposals</b> (on their own land or land they plan to acquire).	FREE	FREE
<b>16. 100% Affordable housing schemes</b>	50% normal pre-app fee	50% normal pre-app fee
<b>17. Non residential additional floorspace (extensions)</b> <b>&lt; 200 square metres</b>	£100 ( <b>£120</b> )	£50 ( <b>£60</b> )
<b>18. Discussions with local residents potentially affected by applications for development.</b>	FREE	FREE

<b>19. One meeting following a refusal of planning permission.</b>	FREE	As fee category
<b>20. Facilities for the disabled.</b>	FREE	FREE

**REFUNDS:**

**Where a request has been received and logged and the officer has not yet begun work (more information may have been requested but not yet received). The sum of £25 will be retained to cover administrative costs.**

**Devon and Somerset Design Review Panel fee (In addition to the above pre-application fee)**

The fees are split between 'Minor' and 'Major' projects. A 'Minor' project is a residential project of 4 or less dwellings. Everything else is classed as a 'Major' project.

The prices for a 90 minute design review panel session with a multidisciplinary Panel of six professionals are:-

- Minor scheme (up to 4 residential dwellings):- £950.00 excl VAT
- Major scheme: - £1,800.00 excl VAT

Booking page and forms are available on the Design Review Panel website ( <https://www.designreviewpanel.co.uk/design-review-panel-dates> ).

**Creating Excellence Design Review Panel fee (In addition to the above pre-application fee)**

Creating Excellence DRPs are best suited to sensitive, larger or more strategic sites, and their services are therefore bespoke. They offer a range of services which can cost around £2000.

But they will discuss the needs of each proposal with the developer and with the LPA in order to ensure the right level of support is offered. Further information is available on the following link. <http://creatingexcellence.net/design-review/role-and-benefits/design-services-and-charges>

**Notes –**

1. Floorspace refers to gross external floorspace.
2. The larger element of a mixed use scheme will primarily be used to determine which category of fee applies to the proposal.
3. For the purposes of charging, flats and holiday accommodation are considered as houses.
4. This is a flat rate fee based on a planning officer attending a meeting, not the length of the time the meeting takes.

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