

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, 18 April 2018 at 2.15 pm

The next ordinary meeting of the Committee will take place on Wednesday, 16 May 2018 at 2.15 pm in the Phoenix Chamber, Phoenix House, Tiverton

STEPHEN WALFORD

Chief Executive
10 April 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 **PUBLIC QUESTION TIME**
To receive any questions relating to items on the Agenda from members of the public and replies thereto.

Note: A maximum of 30 minutes is allowed for this item.
- 3 **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.
- 4 **MINUTES OF THE PREVIOUS MEETING** (*Pages 5 - 20*)
Members to consider whether to approve the minutes as a correct record of the meeting held on 21 March 2018.
- 5 **CHAIRMAN'S ANNOUNCEMENTS**
To receive any announcements the Chairman may wish to make.

- 6 **DEFERRALS FROM THE PLANS LIST**
To report any items appearing in the Plans List which have been deferred.
- 7 **THE PLANS LIST** *(Pages 21 - 90)*
To consider the planning applications contained in the list.
- 8 **MAJOR APPLICATIONS WITH NO DECISION** *(Pages 91 - 94)*
List attached for consideration of major applications and potential site visits.
- 9 **APPEAL DECISIONS** *(Pages 95 - 96)*
To receive for information a list of recent appeal decisions.
- 10 **DECISIONS CONTRARY OF OFFICER RECOMMENDATION** *(Pages 97 - 100)*
To consider a report of the Head of Planning, Economy and Regeneration, providing information where the Planning Committee has made decisions not in agreement with officer recommendation.
- 11 **ANNUAL APPEAL REPORT** *(Pages 101 - 114)*
To consider a report of the Head of Planning, Economy and Regeneration providing information on the outcome of planning appeals for the financial year 17/18.
- 12 **PERFORMANCE FOR QUARTER 4 - 2017/18** *(Pages 115 - 120)*
To consider a report of the Head of Planning, Economy and Regeneration providing the Committee with information on the performance of aspects of the planning function of the Council for quarter 4, 2017/18.

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

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

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

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

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

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

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MID DEVON DISTRICT COUNCIL

MINUTES of a **MEETING** of the **PLANNING COMMITTEE** held on 21 March 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
and J D Squire

Apologies

Councillor(s)

R F Radford and R L Stanley

Also Present

Councillor(s)

Mrs J B Binks, D R Coren, C J Eginton and
Mrs J Roach

Present

Officers:

Kathryn Tebbey (Group Manager for Legal Services and Monitoring Officer), David Green (Group Manager for Development), Simon Trafford (Area Team Leader), Lucy Hodgson (Area Team Leader), Daniel Rance (Principal Planning Officer), Ian Sorenson, Helen Govier (Planning Officer) and Sally Gabriel (Member Services Manager)

128 **APOLOGIES AND SUBSTITUTE MEMBERS**

Apologies were received from Cllrs: R F Radford and R L Stanley.

129 **PUBLIC QUESTION TIME**

Mr Fry referring to Item 1 on the plans List (Chapel Down Farm) asked the following question: what amount of Section 106 and other funding from the development will go to Crediton Town Council for residents as the development is outside the town boundary?

Mr Tucker again referring to Item 1 on the Plans List (Chapel Down Farm) asked the following question: with Government seeking to introduce a 25 year environmental plan how will this development merit net environmental gain?

The Chairman indicated that the questions would be answered when the item was debated.

130 DECLARATION OF INTERESTS UNDER THE CODE OF CONDUCT

Members were reminded of the requirement to declare any interests at the appropriate time.

131 MINUTES OF THE PREVIOUS MEETING

The minutes of the meeting held on 28 February 2018 were approved as a correct record and signed by the Chairman.

132 CHAIRMAN'S ANNOUNCEMENTS

The Chairman had no announcements to make.

133 ENFORCEMENT LIST (00-06-49)

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/17/00070/RURAL – Unauthorised building operations concerning the extension of a former tractor storage shed and the unauthorised change of use of the land from woodland to a mixed use of woodland and recreational use – Culm Wood, (Gaddon Down Plantation), Ashill***).

The Area Team Leader outlined the contents of the report highlighting the breach of planning control and explaining by way of presentation the site in question, the vehicle access and photographs from various aspects of the site, which included the original tractor shed and the new works that had taken place.

Consideration was given to the trees that had been removed on the site.

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 operational development, the cessation of the unauthorised use and the removal of the items of domestic paraphernalia on the land, including the issue of an enforcement notice and prosecution and/or Direct Action in the event of non-compliance with the notice.

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

Note: the following late information was reported: The following statement had been provided on behalf of the owner of the land to seek to justify why the scope of works has been undertaken.

Before my son took over Culm Wood the storm in January 2017 had blown many trees down, breaking down part of a wall on the right hand side of the building and also hitting the roof. This broke holes in it and pushed one of the A frames over which in turn pushed the left-hand wall off its footings and tilted it towards the track

which is used by Buckland Wood Ridden Wood and Ashill Wood. A lot of dog walkers, which I know from when I was a landlord of the Ostler in Uffculme, use these woods and I have a duty of care for them. Therefore, my son started repairing. As we all know there is often a lot more damaged than his realised. Due to these repairs he was reported to the council and consequently told planning but when I enquired about planning permission he was told he would not be given planning permission so he stopped the repair work after making it safe.

Officer Comment: The validity of the information is uncertain in your officer's view, and there is no change to the recommendation as set out in the report as drafted and circulated to members in the report pack.

b) No. 2 in the Enforcement List (***Enforcement Case ENF/17/00160/COU – Change of use of land from agriculture to mixed use agriculture and the siting and use of a caravan for human habitation together with domestic paraphernalia ancillary to such use and the storage of two non-agricultural motor vehicles – land lying to the north of Petton Cross, Shillingford***).

The Area Team Leader outlined the contents of the report by way of presentation highlighting the land in question and providing an aerial photograph which identified the remoteness of the site; photographs were provided from various aspects of the site which showed the caravan in situ and the 2 vehicles.

Consideration was given to:

- The views of the applicant's representative who explained that they had been informed that they could keep the caravan on site until they had erected the shed for the livestock and that the caravan had only been used for storage and not human habitation.
- The requirement for the caravan even if used for storage to have planning permission.
- Whether any planning consent had been applied for.
- The fact that it was felt that the Enforcement Officer had been reasonable in any discussion he had had with the landowner.

RESOLVED that the Legal Services Manager be given delegated authority to take all such steps and action necessary to secure the cessation of the unauthorised change of use by the removal of the caravan and associated domestic paraphernalia along with the two non-agricultural motor vehicles from the site. This could include the issue of an enforcement notice followed by prosecution and/or Direct Action in the event of non-compliance with the notice.

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

Note: Mr Groves spoke on behalf of the landowner.

c) No. 3 in the Enforcement List (***Enforcement Case ENF/17/00266/RURAL – Unauthorised material change of use of land from agriculture to a mixed use of agriculture and the slaughtering, process, packing, freezing, storage and distribution of meat, together with ancillary operational development comprising the erection of two structures and a concrete base – land and buildings at NGR 307589 114376 (Land at Escotts Farm, Uffculme)***).

The Area Team Leader outlined the contents of the report by way of presentation highlighting the rural location of the site in question and the alleged breach of planning control. He provided photographs from various aspects of the site which highlighted the area of hardstanding, the number of buildings on the site, the refrigeration vehicles and a generator. He explained that the Enforcement Officer had been in dialogue with the landowner with regard to the submission of a planning application; a planning application had been received but to date remained unregistered.

RESOLVED that the Group Manager – Legal Services (Legal Services Manager) be given delegated authority to take all such steps and action necessary to secure the cessation of the unauthorised use and the demolition and removal of the unauthorised ancillary operational 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 Mrs H Bainbridge and seconded by Cllr Mrs G Doe)

134 DEFERRALS FROM THE PLANS LIST

There were no deferrals from the Plans List.

135 THE PLANS LIST (00-40-00)

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 (**18/00100/HOUSE – Conversion of garage to a self-contained annexe and erection of a porch – Station House, Culmstock**) be approved subject to conditions as recommended by the Head of Planning, Economy and Regeneration with an additional condition (4) which stated that “The ancillary accommodation hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as Station House as a single family dwellinghouse and shall not at any time be used, either by way of being let, given or sold, as a separate unit of accommodation or for commercial purposes”.

Reason: The site is located outside defined settlement limits in the open countryside where national and local planning policy prohibits the creation of new dwellings unless in special circumstances in accordance with Policy COR18 of Mid Devon Core Strategy 2007 and the NPPF.

(Proposed by the Chairman)

Note: The following late information was provided: the additional condition (4) and a representation from Culmstock Parish Council – No objections.

(b) No 1 on the Plans *List (17/001511/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, Crediton).*

The Area Team Leader outlined the contents of the report by way of presentation highlighting the location of the site North East of Queen Elizabeth Drive, the proposed vehicular and pedestrian access, an aerial view of the site which highlighted the relationship between the site and the town of Crediton, the site location plan and indicative layout of the site, the 5 parcels of space which were proposed for development, the area of public open space proposed to the top of the site, the separation distance between the boundary and various parts of the site outlined for development, the drainage strategy, indicative site sections and the additional planting which sought to mitigate the visual impact and changes in levels.

He continued by explaining that the agricultural land was rated as Grade 2 at the top of the site and Grade 3 on the slopes. Photographs were provided from various aspects of the site and viewpoints from various locations identifying the site.

He provided answers to questions posed in public question time: the S106 package: rules and regulations applied to how S106 funding was applied and the scope of planning obligations within the report related to public open space, education and air quality. With regard to the question relating to environmental issues, he was unable to answer this as the officer recommendation had been one of refusal.

Consideration was given to:

- The number of houses proposed and the number of children who would require school places
- The 'early years' calculation
- The scale of the cross sections
- The volume of traffic in the area of Higher Road
- The views of the Highway Authority with regard to the application
- The views of the objectors with regard to the site not being allocated within the Local Plan, the lack of infrastructure for such a development, the current traffic movements in the area, the capacity of the local schools and doctors practices, pedestrian safety and the visual impact of the proposal on the landscape.
- The views of the applicant who wished the application to be deferred to allow for further discussions to take place, the lack of a 5 year land supply, the concern that the proposals had not been fully considered by the officers, the impact on Queen Elizabeth Drive had been exaggerated and the S106 contributions.
- The concerns of the Parish Council with regard to increased traffic and the impact of this on pinch points within the town, general infrastructure requirements and pedestrian safety.

- The view of the Ward Member in that the application did not meet Policy COR 18, the visual impact with regard to the view from the south.
- General views regarding the impact of the development on the town.
- Developing on Grade 2 agricultural land.
- The need to consider sites established within the Local Plan.

RESOLVED that planning permission be refused as recommended by the Head of Planning, Economy and Regeneration for the following reasons:

1. The application site is outside the current settlement limit boundaries of Crediton and is in the open countryside and is not currently allocated for development. Policy COR18 of the adopted Mid Devon Core Strategy (Local Plan Part 1) seeks to strictly control development outside settlement limits and a development in this location of the scale as proposed would not be permitted under criteria a - f of this adopted policy. Neither is the site proposed to be allocated for housing within the Councils Local Plan Review 2013 -2033. The applicant asserts that the Local Planning Authority cannot demonstrate that it has an adequate five year supply of housing land as required by the National Planning Policy Framework, and therefore Policy COR18 should be afforded limited weight and that the application should be determined against the provisions of Paragraph 14 of the National Planning Policy Framework. When tested against Paragraph 14 of the Framework the Local Planning Authority considers that the adverse impacts of the proposed development, as set out in reasons 2, 3 and 4 below, would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework as a whole as well as being contrary to Policy COR1 of the Mid Devon Core Strategy (Local Plan Part 1) and Policy DM1 of the Mid Devon Local Plan Part 3 (Development Management Policies).
2. The Local Planning Authority considers that by virtue of the elevated and sloping nature of the site the development (of an agricultural field) to include a new section of highway and associated pavement will have a harmful impact to the visual amenity of the area at the western entrance to the town and along Higher Road. By virtue of the topography the development will appear as an incongruous extension adjacent to the existing built development which is set down within the valley cutting. The site is widely visible from the south and development will significantly alter the unspoilt and open qualities of the site and result in the loss of grade two agricultural land forming an important part of the rural setting at this edge of Crediton. Despite the shortfall in housing supply the harm arising to the character and visual appearance of the area is considered to significantly and demonstrably outweigh the benefits derived from the scheme and on this basis the application scheme is considered to be contrary to policies COR2 and COR18 (Local Plan 1) and policy DM2 Local Plan part 3 (Development Management Policies) which seek to protect the character and appearance of the countryside.
3. In the opinion of the Local Planning Authority the development would result in harm to the setting of the Grade II listed Chapel Downs Farmhouse. The agricultural field is considered to form part of the setting of the listed building, and the proposed scheme will alter the character and appearance of the setting of the listed building given the intrusion of built development at a raised level within the setting of the heritage asset. Although the harm is considered

to be less than substantial in National Planning Policy Framework terms, in addition to the other identified harmful impacts of the scheme it is not considered that the public benefit arising from the scheme would outweigh the identified harm to the designated heritage asset and therefore the proposal is considered to be in conflict with the aims of policies DM27 Local Plan part 3 (Development Management Policies) and part 12 of the National Planning Policy Framework which seek to conserve and enhance the historic environment.

4. In the opinion of the Local Planning Authority it has not been demonstrated that development can be accommodated on the site without resulting in unacceptable harm to the amenity of occupiers of neighbouring properties. By virtue of the difference in levels the proposal is likely to result in a form, scale and mass of development that is overbearing to occupiers of residential properties located in Queen Elizabeth Drive and would be detrimental to the amenity they currently enjoy contrary to policy DM2 and DM14 of the Local Plan Part 3 (Development Management Policies).

(Proposed by Cllr F W Letch and seconded by Cllr P J Heal)

Notes:

- i) Cllrs: Mrs H Bainbridge, Mrs F J Colthorpe, Mrs C A Collis, Mrs G Doe, R J Dolley, P J Heal, F W Letch, B A Moore and J D Squire made declarations on accordance with the Protocol of Good practice for Councillors dealing in Planning Matters as they had all received correspondence regarding this application;
- ii) Cllr P J Heal and D R Coren declared personal interests as they knew the landowner;
- iii) Mr Fry spoke on of the objectors;
- iv) Mr Cattamole spoke on behalf of the developer;
- v) Cllr Stephens spoke on behalf of Crediton Hamlets Parish Council;
- vi) Cllr D R Coren and P J Heal spoke as Ward Members;
- vii) Mr Sorenson spoke on behalf of Devon County Council, Highway Authority;
- viii) Cllr Mrs H Bainbridge requested that her vote against the decision be recorded.

(c) No 2 on the Plans *List (17/001090/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 to Brookdale, Threshers, Hollacombe, Crediton).*

The Area Team Leader outlined the contents of the report by way of presentation highlighting the location of the application site, the context of the application with regard to the main roads in the area, the proposed illustrative masterplan for the site, the access, the provision of additional parking to support parking for the primary

school and flood risk mitigation proposals on site. He outlined the parking restrictions outside Landscore Primary School and the thoughts of the school with regard to the proposals. Photographs were provided from various aspects of the site.

Consideration was given to:

- The S106 contributions
- The concerns of the objectors with regard to road safety issues, the shortage of road space in the area, flood issues in the area and the fact that houses in the area had been previously been affected by flooding, capacity at the local primary school and traffic issues at school pick up time.
- The views of the agent with regard to the site being adjacent to the settlement limit, the close proximity of facilities, the fact that the application would deliver benefits with regard to the flooding issues, surface water drainage, the lack of highway issues and that the school was under capacity.
- The views of the Parish Council with regard to the provision of open space and that the S106 agreement should refer to open space at Threshers rather than Queen Elizabeth Drive.
- The view of the Ward Member with regard to issues of flooding and parking which had been mitigated by the proposals and the proposed widening of the area at the bottom of Pitt Hill. The development could be seen as an extension to Westernlea.
- The fact that the Area Planning Officer suggested that the open space project could be accommodated at Threshers.

RESOLVED that planning permission be granted subject to conditions as recommended by the Head of Planning, Economy and Regeneration with revised wording for Condition 15 to state: Prior to commencement of the development a Low Emissions Strategy, including an implementation timescale, shall be submitted to and approved in writing by the Local Planning Authority. The strategy shall include:

- a. A Detailed site travel plan including support for/access to public transport.
- b. Provision for electric vehicle infrastructure at a rate of 1 charging point per house (with a driveway or garage).

The terms of agreed strategy shall be implemented and maintained in accordance with the approved details.

and the signing of a S106 agreement to secure the following:

1. Affordable Housing: 35% affordable housing on site (13 units)
2. Education: a contribution of £10,000.00 towards early years provision
3. Air
Quality: a contribution of £119, 718.00 to contribute towards the community car share schemes and clubs for Crediton- phase two, for the provision of bike storage facilities at Crediton railway station and to contribute towards the subsidised bus scheme for Crediton Town Centre.
4. Public Open Space: a financial contribution of £32,535.00 towards improvements to the open space and play area adjoining Threshers Crediton Hamlets.
5. Safeguarding of the land and a scheme of works to deliver the car park as shown on drawing number CAM XX GF GA I SK004 Rev P3

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

Notes:

- i) Cllrs D R Coren and P J Heal made declarations in accordance with the Protocol of Good Practice for Councillors dealing in Planning Matters as they had attended Parish Council meetings where the application had been discussed;
- ii) Mr Holes spoke in objection to the application;
- iii) Mr Scoot spoke as agent;
- iv) Cllr Stephens spoke on behalf of Crediton Hamlets Parish Council;
- v) Cllrs D R Coren and P J Heal spoke as Ward Members;
- vi) Cllr F W Letch requested that his vote against the decision be recorded;
- vii) The following late information was provided: Page 27: Recommendation Section.

Delete item 6: Monitoring and legal costs

Page 48: Revise the wording of condition 15 as follows:

15. Prior to commencement of the development a Low Emissions Strategy, including an implementation timescale, shall be submitted to and approved in writing by the Local Planning Authority. The strategy shall include:

- a. A Detailed site travel plan including support for/access to public transport.
- b. Provision for electric vehicle infrastructure at a rate of 1 charging point per house (with a driveway or garage).

The terms of agreed strategy shall be implemented and maintained in accordance with the approved details.

- (d) No 3 on the Plans *List (17/002014/FULL – Retention of log cabin for storage, shelter and education – Castleland House, Bampton).*

The Area Team Leader outlined the contents of the report by way of presentation highlighting the location of Castleland House and the access point from the highway and into the woodland, the aerial view identified the cabin and the site location. Members viewed the floor plan and elevations, the proposed drainage plan, the block plan and parking arrangements. Photographs were also shown from various aspects of the site.

Consideration was given to:

- The positioning of the proposed septic tank to the North East of the site
- The establishment of a wet room and the reasons why the cabin would require one

- The views of the objector in that cabin was not in the curtilage of the house, it was a retrospective application, it would set a precedent, it sat within designated agricultural land and the local residents were not happy with the impact that the development would have on the local area
- The views of the applicant's representative in that it would not set a precedent, and had a safe and secure access, did not have any overlooking issues or visual impact. She also outlined the various projects that would take place on the land.
- The views of the Ward Member outlining the concerns of the local residents, the small business that was proposed, the retrospective application and possible cumulative impact
- The fact that small businesses required encouragement
- Right of access to the site

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

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

Notes:

- i) Cllr Mrs F J Colthorpe declared a personal interest as she had had involvement with the applicant's representative with regard to Bampton Library and chose to leave the meeting during the discussion thereon; the Vice Chairman took the Chair;
- ii) Cllr B A Moore made a declaration in accordance with the Protocol of Good practice for Councillors dealing in Planning Matters as he had had discussions with the applicant and objectors;
- iii) Mr Goodwin spoke on behalf of the objectors;
- iv) Ms Crabtree spoke on behalf of the applicant;
- v) Cllr B A Moore spoke as Ward Member;
- vi) Cllr B A Moore requested that his abstention from voting be recorded.
- vii) The following late information was provided

(e) No 5 on the Plans *List (18/0083/FULL – Permanent retention of log cabin for use by full time worker – land at NGR 295174 103122, The Orchard, Great Pitt, Silverton).*

The Area Team Leader outlined the contents of the application highlighting the history of the site, the reasons why the applicant had to live on the site, the business accounts that had been submitted showing financial viability. Members viewed the site location plan and aerial photograph, details of the buildings on site, the existing stables and schooling area, a block plan, existing access and foul drainage system,

elevations and floor plans of the log cabin and photographs from various aspects of the site.

Consideration was given to:

- The views of the applicant's representative who stated that he was in full support of the charity. As a Chartered Accountant who provided the accounts for the charity, the accounts complied with the financial test and the business seemed financially stable.
- The views of the Ward Member who reminded Members that the temporary application had one year to run. She voiced concern with regard to the proposed conditions and requested that further detail be provided with regard to the business plan. She felt that she needed to challenge the financial material supplied and questioned whether (i) the charity had a contract with the applicant (ii) whether the applicant was paid and (iii) why the vets fees were so low.
- The need for the site to have someone in residence
- Little objection to the application
- The personal condition (3) within the report.

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

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

Notes:

- (i) Mr Frank spoke on behalf of the applicant
- (ii) Cllr Mrs Roach spoke as Ward Member
- (iii) The following late information was provided: 21st March 2018

Additional comments received from the applicant:

- Foal foster care for Dartmoor Heritage Pony trust and for Friends of Dartmoor Hill Ponies Society. Foals have additional needs associated with their very early days or being orphaned. Foals are vulnerable and require specialist care;
- Foals arrive on a rolling basis at least 2 at a time so they are not alone, potentially every two months. NLHC can take between 4-6 foals again in April. Conservative estimate of 8 foals a year. The foals are repurposed and do not go into the meat trade, the Dartmoor pony is an endangered equine species;
- NLHC also takes rehab horses (approx. 11/12 over last 3 years) as well as vulnerable horses from markets, and from the RSPCA. Currently have 2 Blue Cross ponies on site, one NLHC charity pony with COPD and behavioural issues, one rehab horse with severe medical needs for whom the applicant is the caretaker. Vulnerable foals should not be left unattended and unsupervised and neither should horse with severe medical conditions such as breathing problems, cellulitis and lymphangitis. The foster care program would not be allowed if there weren't 24 hour supervision. If applicant needs to go out for any length of time, cover is organised;

- NLHC emphasis is the foal foster care program and their training if required;
- Young people, and parents and young carers receive therapeutic horse help/lessons;
- Well established charity that is well known due to social media which attracts business;
- Experienced fund raiser;
- The applicant has stated that she works up to 10 hours per day throughout the year, including a check on the animals on site at midnight;
- The applicants working day is stated to include: looking after and training horses, supervising foals in a pen, fund raising, paperwork, charity promotion, supervising volunteers, therapeutic lessons between horse and young person/young carers;
- There is a pen for foals on the west side of the log cabin to allow close supervision as a transition space so they can become used to living outside.

Additional letters received

- Letter from equine vet that provides veterinary care for horses and ponies at NLHC. The letter confirms there are multiple horses at the premises that included/have included young horses, older horses with on going physical conditions and ponies requiring intensive handling training. He states that he regularly visits he premises to attend to the horses including call outs on multiple occasions out of normal working hours. He states that to provide adequate care to the horses it is ideal that someone is available on site 24 hours to allow checks on the horses to be made as necessary.
- Letter from operator of the Registered Pony Keeper Scheme with the Dartmoor Pony Heritage Trust:
- I am writing in support of the planning application for Jackie Tye of the Orchard, Great Pitt, Silverton, EX5 4JQ

We are long established commoners and breeders of Dartmoor ponies, who operate as part of the Registered Pony Keeper Scheme with the Dartmoor Pony Heritage Trust (DPHT). We train the offspring of wild Dartmoor ponies to eventually be sold as children's ponies and to supply a conservation grazing need for the grazing of valuable habitats all over the UK. In doing so we are passionate about preserving the indigenous Dartmoor pony and are committed to keeping native wild herds living out on the Dartmoor commons where they belong.

An essential part of this process is to find suitable homes where young foals can be fostered out after weaning each year, to teach them about being handled and to prepare them for a future with humans having being born wild. New Life Horse Care Sanctuary has provided precisely this foal fostering service to us for many years and have been an invaluable partner due to the exceptional care they can provide. We approached New Life Horse Care Sanctuary (NLHCS) as they can provide the 24 hour supervision needed for young and frightened foals as they live on site and can also ensure that there is always someone on hand 24 hours a day for emergency veterinary situations out of hours. They have offered this service to us for many years and this has proved invaluable as these are vulnerable young stock, in a high stress situation, where emergency situations can and do occur.

The service provided by NLHCS is not about helping to produce ponies for sale for profit, it is about supporting organisations such as DPHT and their recognised breeders, who are committed to preserving the true Dartmoor pony, which is a breed in serious decline with a dwindling gene pool and an uncertain future. NLHCS fostered on average 12 foals each year from us, sending them two at a time for intensive care and handling - giving those young foals a chance in life and enabling them to go on to a useful future as ambassadors for the Dartmoor pony breed.

The situation for the Dartmoor pony is serious, NLHCS endeavours to make a difference and the positive contribution they make to this situation is invaluable. It would be a great loss if their tireless work was unable to continue.

If you would like any further information on services provided for the Dartmoor pony by NLHCS I would be happy to help.

136 MAJOR APPLICATIONS WITH NO DECISION (3-14-32)

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

It was **AGREED** that

Application 18/00091/MFUL - St Lawrence Homes, Crediton, be brought before the Committee for determination and that a site visit take place.

Application 18/00214/MFUL – Hunters Hill, Culmstock, be brought before the Committee for determination.

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

137 APPEAL DECISIONS (3-19-16)

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

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

138 CONSIDERATION OF PLANNING APPLICATIONS FOR GROUND MOUNTED SOLAR PHOTOVOLTAIC SCHEMES. (3-19-30)

The Committee had before it a * report of the Head of Planning, Economy and Regeneration requesting consideration as to whether there is a wish to continue to determine all solar photovoltaic (PV) panel schemes that are ground mounted and recommended for approval, irrespective of the scale of the proposal.

The Chairman informed the meeting that it had previously been decided that all ground mounted solar Photovoltaic schemes be brought before Committee, even though some of the schemes had been very small in size. Over the past few months several small schemes had been put before committee and approved without

discussion, it was therefore recommended that small scale proposals be dealt with under delegated powers.

The process of call in would still be available to Members if they felt that a particular application required Committee approval

RESOLVED that with the exception of small scale proposals, applications for ground mounted solar PV arrays recommended by Officers for approval be brought before the Committee for determination.

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

Note: *Report previously circulated copy attached to minutes.

139 **RECOMMENDATION FROM THE STANDARDS COMMITTEE (3-24-02)**

Consideration was given to a recommendation from the Standards Committee with regard to procedures. The Chairman of the Standards Committee presented Minute 70 of the Standards Committee meeting on 14 March 2018 which considered Motion 541 (Councillor Mrs J Roach – 30 November 2017):

This Council reconsiders the time and times that it allows ward members to speak at the planning committee. The present system gives many opportunities to speak but allows the local member only one opportunity. At the very least Council should give elected Councillors the opportunity to correct incorrect statements, something that exists within standing orders but not allowed at the planning committee. At the last planning committee the situation that exists at the moment prevented me as the elected Councillor for Silverton for pointing out that the Highways advice was inconsistent with previous advice given on the same site.

At that meeting a *report of the Monitoring Officer had been received and consideration had been given to that part of the Protocol of Good Practice for Councillors Dealing in Planning Matters (“the Planning Protocol”) which addressed public speaking at the Planning Committee. It had been agreed that clarity was required and further consideration was given to the presentation of questions or statements at public question time, the number of people who could speak and in what order and whether it was appropriate to include a form of “point of order” for Ward Members to correct a statement or an error of fact that had been made during the course of the debate on an application.

Members of the Planning Committee considered the following:

- Whether statements should be allowed within Public Question Time or should questions just be asked?
- Whether the ability to correct an error was reasonable
- The views of Councillor Mrs Roach with regard to her motion and the reasoning behind it in that she felt that there was a need to “come back” when clarification or correction was required.
- The need for those interested in a planning application or other matter on the agenda to feel that they had received a fair opportunity to make their point.

With regard to the recommendation on paragraph 9.1 of the Planning Protocol, Members of the Planning Committee considered that the focus should remain on

questions, although it should be made clear that those speaking could briefly introduce or explain the background to their questions(s). Members were reminded that those speaking at Public Question Time were limited to 3 minutes in any event.

Accordingly, it was therefore **RECOMMENDED** to Council that: the Planning Protocol be amended to the following:

- a) **9.1** Public Question Time is available at the beginning of the meeting for those present to ask questions about any item of the agenda, or to speak briefly by way of background or introduction to those questions, including planning applications.
- b) **9.2** For applications reserved for individual consideration, the Chairman will call those who have indicated a wish to speak in the following order: officer, one objector (3 minutes), one from applicant/agent/supporter (3 minutes), parish council (3 minutes) and ward member(s) (5 minutes each). For the avoidance of doubt, the Chairman has the discretion to vary the number and order of speakers, including the amount of time for which they may speak. In some circumstances, it may also be appropriate to hear from the County Councillor.
- c) **9.3** Through the Chairman, members of the Planning Committee may ask questions of any person who has spoken under paragraph 9.2 of this Protocol. Further, a ward member who has spoken under 9.2 may raise through the Chairman a point of order in order to correct a statement or error of fact which has been made during the course of the debate.

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

Notes:

- i) * Report previously circulated and attached to Minutes.
- ii) Cllr Mrs F J Colthorpe declared a personal interest as a Member of the Standards Committee.

140 PLANNING PERFORMANCE AGAINST TARGETS QUARTER 3 OCTOBER - DECEMBER 17/18 (3-52-08)

The Committee had before it and NOTED a * report of the Head of Planning, Economy and Regeneration providing the Committee with information on the performance of aspects of the planning function of the Council for quarter 3 17/18.

The Group Manager for Development outlined the contents of the report highlighting the quarter 3 statistics which were all above target, identifying the speed and quality of the processing of applications within Development Management, the enforcement data which showed the number of new enforcement cases received and those that had been closed. He informed the meeting that the post of Conservation Officer had been filled and that the new officer would take up his post at the end of May.

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

(The meeting ended at 18.25)

CHAIRMAN

PLANNING COMMITTEE AGENDA - 18th April 2018

Applications of a non-delegated nature

<u>Item No.</u>	<u>Description</u>
01.	17/01716/FULL - Reinstate access and farm track to agricultural land at Land at NGR 292482 101905, School Lane, Thorverton. RECOMMENDATION Grant permission subject to conditions.
02.	17/01411/FULL - Retention of slurry lagoon at Land at NGR 276429 99746 (Adjacent to Mardles Gate), Colebrooke, Devon. RECOMMENDATION Grant permission subject to conditions.
03.	18/00088/FULL - Conversion of a public toilet to a food outlet/kiosk, including retention of one toilet cubicle for use by the public at Public Conveniences, St Lawrence Green, Crediton. RECOMMENDATION Grant permission subject to conditions.
04.	18/00302/FULL - Change of use from car park to storage (Class B8) and installation of weighbridge and control room at Carlu Close and change of use of land to car park on land adj Lucas Yard at Mid Devon District Council, Unit 3, Carlu Close. RECOMMENDATION Grant permission subject to conditions.
05.	17/01323/MOUT - Outline for the relocation and expansion of Tiverton High School and the integrated development of Tiverton Community Arts Theatre at Tiverton High School & Land East of Bolham Road, Bolham Road, Tiverton. RECOMMENDATION Grant permission subject to conditions.

Application No. 17/01716/FULL

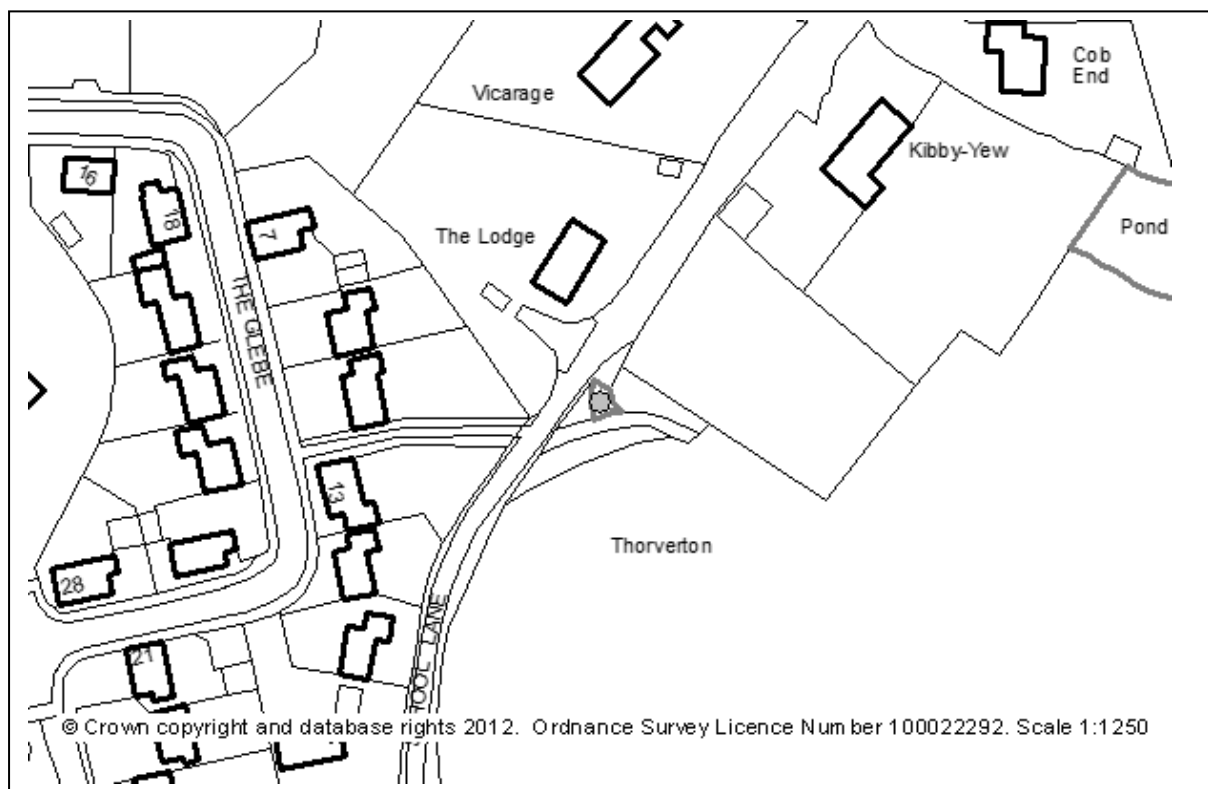
Grid Ref: 292482 : 101905

Applicant: Mr Richard Parr

Location: Land at NGR 292482 101905
School Lane
Thorverton
Devon

Proposal: Reinstate access and farm track to agricultural land

Date Valid: 19th October 2017



APPLICATION NO: 17/01716/FULL

MEMBER CALL-IN

Called in for consideration by Planning Committee by Cllr Bob Deed for the following reasons:

To consider whether there is an agricultural need for access and to consider matters relating to Highway safety.

RECOMMENDATION

Grant permission subject to conditions.

PLANNING WORKING GROUP – 5 April 2018

Application 17/01716/FULL – Reinstate access and farm track to agricultural land – land at NGR 292482 101905, School Lane, Thorverton

There were 5 Members of Planning Working Group present.

Also present – the agent, an objector, a representative of the Parish Council, the Ward Member, the Case Officer and a representative from the Highways Authority (Ian Sorenson).

The Chairman indicated that the Planning Working Group had been requested to visit the site to consider:

- The steepness of the application site
- The visibility splay
- Whether additional conditions, uses or methods of construction were required
- Pedestrian Safety
- The consequences of the application on the local amenity

The Principal Planning Officer outlined the application providing plans which identified the new access; the 1 in 10 slope for the first 8 metres of the access, the original access and the proposal to move the new access 2 metres from the road with a grass verge and retaining wall. The initial part of the access would be formed in concrete and drainage channels provided. The current access would remain and with the proposed access, this would allow vehicles to exit the field by either turning right or left onto School Lane.

The Group moved further into the access to the field and discussed the access issues which had been approved by the Highways Authority.

A representative of the objectors spoke questioning the ownership of all of the land in question. He stated that the visibility did not meet the acceptable requirements and to enable the required level of visibility there would be a need to encroach onto the road. He questioned the 1 in 10 steepness into the site and voiced concerns regarding the modified plans which gave additional detail. There was a need to make decisions on facts and that the Portal stated that the Highway Authority had no objection to the application, this was a local Highway man and not Mr Sorenson.

Mr Sorenson (Devon County Council, Highway Authority) stated that the plans identified that the area would be built out to provide a suitable visibility splay, he stated that his colleague also found it to be acceptable. The Highway Authority accepted the plans as the proposal would be covered under the Highway Act. The land covered within the application was already publically owned and did not step into privately owned land.

Mr Dyson (Agent) spoke stating that the steepness had been accepted by the Highway Authority, the slope would be graded and it would extend into the field, there was only a requirement for a 1 in 10 slope for the first 8 metres of the access. The visibility splay would be built out onto highway land which would achieve the visibility required and it would actually improve the visibility to the left looking out from the site, the bank would be reduced and a visibility splay would be achieved in both directions. The Devon Bank and the retaining wall would stop any movement of earth out into the road.

Cllr Bright (Chairman of Thorverton Parish Council) spoke stating that the main objections were that of the ability to access the field via a 1 in 10 slope, the issue of drainage on a concrete entrance that could be blocked by muddy tyres and the maintenance of any drains; he also had concerns regarding road safety as it looked like a pinch point would be created which would be situated by the footpath from The Glebe which was used by children attending the local school.

Mr Sorenson explained that the road would not be narrowed at this point.

Cllr R M Deed (Ward Member) questioned the position of the bank and whether the bank would be physically cut to reduce it and lower it. He also questioned whether the proposed access would reduce the area of road surface at this point as at the current time it was used as a passing place.

Mr Sorenson explained that the bank would be cut back, reduced and a retaining wall created, the new gateway could be used as a passing place.

Members discussed the issues and accepted that there was a need for an amendment to the drainage condition to change the style of drainage system from an "Acco" style to a channel block and that the landowner would be required to maintain the drainage system in perpetuity. It was suggested that traffic generated from the field would not cause any increase in traffic movement and that the access in and out of the entrance was sufficient.

Members agreed that they would voice their views regarding the application at the next meeting of the Planning Committee.

UPDATE.

Since consideration of the report at the last meeting of Planning Committee, a further consultation response has been received from **DCC Highway Authority** (5th April 2018):

Observations:

Further to the Highway Authority responses to emerging plans and our emails and following the committee site meeting I am happy to offer the following conditions for consideration.

Recommendation:

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

THE FOLLOWING CONDITIONS SHALL BE INCORPORATED IN ANY GRANT OF PERMISSION

1. Visibility splays shall be provided, laid out and maintained for that purpose at the site access where the visibility splays provide intervisibility between any points on the X and Y axes at a height of 0.60 metres above the adjacent carriageway level and the distance back from the nearer edge of the carriageway of the public highway (identified as X) shall be 2.40 metres and the visibility distances along the nearer edge of the carriageway of the public highway (identified as Y) shall be 43.00 metres in a Northerly direction and 43.00 metres to the centre line of the carriageway in the other direction.

REASON: To provide adequate visibility from and of emerging vehicles.

2. The site access road shall be hardened, surfaced, drained and maintained thereafter to the satisfaction of the Local Planning Authority for a distance of not less than 8.00 metres back from its junction with the public highway

REASON: To prevent mud and other debris being carried onto the public highway

3. The frontage of the site shall be set back 2.4 metres from) the nearer edge of the existing carriageway and the land in front of this new boundary shall be cleared of any obstruction to visibility and the level reduced to no greater than 600mm above the carriageway level

REASON: To provide adequate visibility from and of emerging vehicles and to allow for future improvement of the road

4. In accordance with details that shall previously have been submitted to, and approved by, inclusive of but not limited to drainage channel (not Acco drainage), Soak away details and porosity rates the Local Planning Authority, provision shall be made within the site for the disposal of surface water so that none drains on to any County Highway

REASON: In the interest of public safety and to prevent damage to the highway

5. Off-Site Highway Works No Use of the new access shall take place on site until the off-site highway works for the provision of a build out to support the visibility splays has been designed, approved by the Local Planning Authority constructed and made available for use.

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

FURTHER OFFICER COMMENTS:

Since the consideration of this application at an earlier meeting of Planning Committee, a further plan of the layout of the access works has been received. This amends the length of visibility splays in accordance with Highway Authority recommendations (43m in each direction as taken from a point 2.4m back from the edge of the carriageway).

In light of the updated consultation response and its suggested conditions, your officers have updated the recommended highway related conditions at the end of this report together with an informative note advising on the nature of the surface water drainage arrangements that will be sought.

PROPOSED DEVELOPMENT

The applicant seeks planning permission to reinstate an access and farm track to agricultural land on land at NGR 292482 101905, School Lane, Thorverton. At the present time there is an existing access to the field which arcs to the south but this proposal is to create an additional access which arcs into the site from the north in order to allow agricultural vehicles to be able to leave the field in a north direction along School Lane without having to travel further south along the country lane before having to turn in order to allow travel northwards back along the lane.

The new access proposed would be 3.7m wide having a minimum radii of 10m with the access to the south being 3m wide with a new chamber and channel drainage to a soakaway to be installed across the two accesses to prevent surface water runoff into the lane. From the lane to the drainage channel, both accesses would have a concrete surface. An area of the existing bank would be lowered [a minimum distance of 2m from the carriageway edge] to create a grass verge and an area would be built out to the other side of the proposed access to provide an improved visibility along the frontage, with a visibility splay of 2.5m by 43m in either direction achieved from the new access. A new retaining wall would be constructed, block faced with random rubble and the existing traffic sign would also be relocated slightly further over.

APPLICANT'S SUPPORTING INFORMATION

Completed application form
Location Plan, Block Plan, Layout Plan and Elevation
Section Plans
Agricultural Justification Letter

RELEVANT PLANNING HISTORY

90/01095/FULL - PERMIT date 17th August 1990
Construction of vehicular access

17/01456/PNAG - PNP date 10th October 2017
Prior notification for the re-instatement of farm access/track

DEVELOPMENT PLAN POLICIES

Mid Devon Core Strategy (Local Plan 1)

COR1 - Sustainable Communities
COR2 - Local Distinctiveness
COR9 - Access
COR17 - Villages
COR18 – Countryside

Mid Devon Local Plan Part 3 (Development Management Policies)

DM1 - Presumption in favour of sustainable development
DM2 - High quality design
DM22 – Agricultural development
DM27 - Development affecting heritage assets

CONSULTATIONS

Thorverton Parish Council - 9th November 2017

At the November 7th 2017 meeting of Thorverton Parish Council it was resolved that the following comment be submitted to MDDC Planning Department objecting to this application: 'Thorverton Parish Council objects to this planning application on the grounds of road safety'

Thorverton Parish Council – 14th February 2018

Thorverton Parish Council resolved to submit the following comments on this application:

- 1) The revised drawings do not provide the information required to address the objections raised by the local Highways Authority
- 2) No levels or sections have been shown and the drawings do not demonstrate that the access gradient can be achieved at one in ten
- 3) The retention of the bank appears to obstruct visibility above 600mm
- 4) Soakaway does not indicate a depth
- 5) An apron of 10 metres, as required by Highways, does not seem to have been addressed
- 6) Visibility splays should be shown in both directions and from both exits but are not.

Highway Authority - 9th November 2017

Observations:

I have visited the site which is located on a single track road and the current access is substandard in terms of alignment visibility and construction. The Highway Authority is aware of the objections submitted which make reference to the unit supplying fuel to an AD plant in Clyst St Mary. Before the Highway Authority can make a full assessment of this application the Local Planning Authority are advised to seek a response from the applicant into the figures identified. These figures would appear to be generations over a full year and over a much larger land take and while they may be from land in the control of the applicant elsewhere on school lane the traffic generations of this field need to be determined to consider this application on its own merits. In addition to which the Highway Authority would seek the following details incorporated into a new design plan.

- Both accesses should remain open if consent is granted.
- The applicant would need to demonstrate access gradients for both the new and existing access of 1 in 10 maximum
- The access is hard surfaced in Tarmac or Concrete for the first 10.0m
- Visibility splays are provided with no obstruction greater than 600mm above the existing road surface taken from a point 2.4m back along the centre line of both accesses and extending to a point 25.00m to the north and 25.0m to the south,
- The access will need to demonstrate suitable drainage so as to prevent surface water, and detritus entering the public highway.
- Position of the relocated signage so that is visible to oncoming drivers for a distance of 25.0m and does not present an obstruction to visibility.

In addition to the above the Highway Authority may wish to place a restrictive condition on times of use to avoid conflict with school pick up and drop off such a restriction may require a suitable legal agreement Upon receipt of the above information the Highway Authority will reassess the application

Recommendation:

The Head of Planning, Transportation and Environment, on behalf of Devon County Council, as Local Highway Authority, is likely to recommend refusal of planning permission, in the absence of further information:

Adequate information has not been submitted to satisfy the Local Planning Authority that the proposal is acceptable in terms of access, visibility splays, road layout, road construction, road gradients, and surface water drainage, contrary to paragraph 32 of the National Planning Policy Framework

Following the submission of additional information the following response has been received:

Highway Authority - 8th February 2018

I can confirm that I have no objections in principle. I have forwarded the plan to neighbourhood engineer to see if he is willing to accept a licence application based upon this plan. His input will determine the conditions - if he accepts it I can accept the plan and he will deal with any further details in the licence, if he does not, he may require further plans being produced and a condition which will require discharging. If he is content I can condition the drawing as submitted.

One letter of objection as summarised below has been added as the Local Highway Authority has responded to the points raised:

1. This is a cynical Trojan horse application by the landowner to obtain a new access in the hope of residential development on a steep hillside, outside the 30 mph limit.
2. Measurements are not given for the retaining wall or the grass verge where the hedgerow is to be removed. The plan does not appear to be accurate on highway adjoining boundaries which may have been tweaked to fit the proposal.
3. The highway 'road narrows' sign and 'double bend' sign will not be properly visible to motorists in the relocated position.
4. The engineering works associated with this proposal are inadequate given the very steep incline particularly in wet weather.
5. To turn from School Lane into the new entrance with a 16m long tractor and trailer, grain trailer, or anaerobic digester waste trailer, will mean a wide turning circle and driving onto the curtilage of the listed Lodge opposite to achieve the turn, crossing from one side of the lane to the other and needing high revs to get up the very steep gradient.
6. Given the size and weight of vehicles and narrow width of turn and very steep incline, there would increase the health and safety risks.
7. There are no pedestrian pavements along the very narrow School Lane making the risk to villagers and children even greater walking to school and The Bury.
8. The proposed drains are totally inadequate to deal with the rain water and storm water run off from the concrete pad - soil and mud will also be dragged onto the highway. In addition where does the storm water and soil go once it enters the chamber on the plan?

Local Highway Authority - 22 February 2018

The Local Highway Authority response to the points raised in the additional letter of objection referred to above is as follows:

1. This is not for this application to consider and is speculation, however, the access being provided for agricultural use would not be suitable for a residential estate road and significant further works would be necessary along with suitable transport assessments for any housing generations will be necessary to determine suitability for the site for an increase in traffic.
2. Items 2, 3, 4 I have considered in the whole. The full width of verge and location of the realigned bank will be determined by the visibility splays. The current configuration with the retained bank was a desire from the Planning Authority to maintain the bank and general street scene. The Highway Authority are happy to accept this plan, albeit less than satisfactory, based on the need for the developer to enter into a licence with the Highway Authority where greater detail can be submitted in terms of technical aspects, but the layout, materials, visibility splay provision of drainage, radii and widths have been determined.
5. The swept path of agricultural vehicles entering the site from school lane from the north have been taken into consideration and that is why a 10m radii curve into the site and the lane /access width are as they have stipulated.
6. The gradient of the access has been stipulated as no greater than 1 in 10 for the new section which is the maximum gradient accepted by the Highway Authority and the hard surfacing of the access for the first 6.0m will cater for the skid resistance of the access.

8. The introduction of the drainage is a benefit over the existing access which is greater than 1 in 10 and has no restraint to water entering the highway. Details of the soakaway will be dealt with through the licence. The hard surface identified on the plan is the necessary requirement that allows a full wheel rotation and the reasonable removal of mud and stones before a vehicle enters the public highway. While greater detailed drawings would be desirable the plans submitted have sufficient annotation from a Highway Authority perspective to work with particularly given the need for a licence under the Highway Act.

Environment Agency – This is operational development less than 1 ha within flood zone 1 where no consultation is required.

REPRESENTATIONS

42 letters of objection have been received with the grounds for objection summarised under the following issues.

Application form and plans submitted:

1. The new plan is not to scale with no details of any materials to be used in the construction and the proposed "channel drainage to soakaway" is lacking in any technical information.
2. Parts of the application form have been filled out incorrectly
3. The term re-instatement is misleading as whilst there may have been a field gate at one time, no powered wheeled vehicle has ever entered this unit from the north.
4. Level of detail. The current field access was installed under planning permission 90/1095/FULL which had a number of conditions regarding positioning of the field gate 5m back from highway, suitably hardened surface material, maintaining hedgerows etc. in order to improve visibility, protect the visual amenity of the area and prevent mud and stone debris being carried onto the public highway in the interests of public safety and convenience.

Need for access:

5. The applicant is named on a planning application approved by East Devon District Council as working under contract to grow bio feed to fuel an Anaerobic Digester located near Clyst St Mary. Land as Yellowford is identified as generating 1,530 tonnes of crop and in turn taking back 1,170 tonnes of digestate in order to "fertilise" the fields. These activities generate at least 350 journeys by tractor and trailer across narrow lanes. These journeys would be re-routed to the north, past the primary school and through the middle of the village whereas they have been successfully delivered in the past using the existing exits to the South down School Lane towards Brampford Speke & Exeter.
6. Other accesses have been opened up along School Lane (some without permission) to allow the large scale farm machinery to enter the field.
7. It will not improve road safety as all crop harvested this year from the whole plot (including this field) has all gone south down School Lane. It is understood that not one load has completed a 3 point turn at Yellowford and returned through the village.
8. The current owner has successfully operated all types of large agricultural machinery using the current access since acquiring the land over 4 years ago without apparent inconvenience.
9. Why would the landowner wish to add over 4 miles each way to a journey to his home farm while needing to negotiate a very tight turn in the centre of a village?

Practicability of access:

10. It would be unusable as the field is at least 5 meters above the level of School Lane with any new lane from the north needing to be a similar length of that to the south to prevent a steep slope and a steep bend.
11. A tractor is unlikely to negotiate this steep bend into the field and prevent debris from inevitably ending up in the public highway.
12. A new access may only be achieved by being engineered in concrete which would create significant extra surface water run-off and diffuse pollution through soil and mud dragged onto the highway by heavy agricultural vehicles, thereby increasing the risk of a road traffic accident.
13. The proposal would require more engineering works in the form of highway drainage to deal with surface water run off and mud. There is a constant run-off from the current access onto the lane with the existing drainage unable to take this extra water away.
14. The existing road signage would need to be relocated.

Highway Safety:

15. It will be an unsafe entrance due to the close proximity of neighbouring residencies and sited opposite a footpath from The Glebe to School Lane that is designed to provide primary school children an alternative safer route to the Thorverton primary school.
16. School Lane has no pavements and with the future new development in Broadlands for sixteen additional houses, the number of children using this route to access the school will increase. Young pedestrians would be sharing a narrow country lane with turning tractors and trailers which is not safe.
17. The new access would be off a blind muddy corner and will result in an increase in heavy large agricultural vehicles along School Lane which is narrow and sunken with poor drainage.
18. The application proposes to unnecessarily drive large heavy farm machinery through the village of Thorverton, past the village primary school to a sharp right angled bend in the middle of the village (junction of school lane and Bullen Street). The DCC School Transport Safety Officer has already expressed concerns over road traffic/parking issues.
19. Most buildings and many walls in both in School Lane and the middle of the village try to be protected by bollards. Unfortunately they are in regular need of replacement due to damage by farm machinery trying to negotiate these narrow roads. Driveways along School Lane are also used as a passing place to allow large vehicles to squeeze through. The implied additional minimum of 350 extra journeys through the middle of the village caused by this totally proposal will only exacerbate an already bad situation.
20. The ownership of West Raddon Farm is based in Netherexe, meaning an inevitable level of farm traffic between the two, routed through Silver Street, The Bury and Bullen Street. This traffic has been compounded in the last few years by two other developments. First, the landslip and resulting closure of Hulk Lane to vehicles has meant that traffic between Fortescue Farm and Rewe Barton, traffic which formerly used Hulk Lane, is forced to use Silver Street, The Bury and School Lane. Second, Yellowford Farm is now in common ownership with Lynch Farm, and traffic between the two used Bullen Street and School Lane. Prominent among the latter are milk tankers; these navigate the corner between Bullen Street and School Lane only with difficulty, and have a history of causing damage to cobble, kerbs and pavements.

Impact on Heritage Assets:

21. Thorverton Conservation Area Appraisal and Management Plan describe School Lane as having a rural, tranquil character.
22. A new access may only be achieved by being engineered in concrete which would be completely out of character with the adjacent conservation zone, being unsightly.
23. MDDC have the duty to ensure that proposals for development within the conservation area either preserve or enhance character." The proposed application with the installation of a large concrete ramp directly opposite The Lodge, a quintessentially English thatched country cottage, and adjacent to the conservation area seems contradictory to these stated aims.

Impact on the environment:

24. This application, if granted, would be in direct contravention to Thorverton Parish Plan and Council's environmental aims.
25. The use of concrete for the proposed and existing access is not in keeping with the local environment and not in accordance with MDDC's stated vision to conserve and enhance the areas environment. Discouraging the use of School Lane by walkers and cyclists is also not in keeping with the spirit of MDDC's Greater Exeter Strategic Plan, especially in relation to transport issues.
26. The ostensible purpose of the development is to facilitate vehicle access for the movement of biomass for use in an anaerobic digester. Crops grown for this purpose [e.g. Maize] lead to soil structural degradation and lead to significantly higher surface-water runoff as clearly established by research published in Soil Use and Management in 2013. The runoff from the fields in question will adversely affect both School Lane and also the River Jordan and Silver Street due to the orientation of the slope of the field from the 77 Metre highpoint shown on the OS Map at N50:48:18 W3:31:32 (WGS84).

Potential use of access for future residential development:

- There have been enquiries made to Thorverton Parish Council by Devon and Cornwall Housing (DCH) regarding the possibility of building "30+ housing and car parking" on the land immediately surrounding this gateway on School lane.
- The proposal will lead to housing on site resulting in more traffic and pollution.

The following representations were reported on the update sheet to the Planning Committee on 28th February 2018:

Further 4 objections were received following receipt of the amended plans. Similar points have been raised as reported in the Committee Report but additional comments raised are summarised as follows:

- Drainage will run off the proposed concrete surface for both accesses into the highway
- How will soakaway and drainage be maintained and kept clear
- There are no details for the soakaway location/depth

One letter of objection as summarised below has been added as the Local Highway Authority has responded to the points raised:

1. This is a cynical Trojan horse application by the landowner to obtain a new access in the hope of residential development on a steep hillside, outside the 30 mph limit.
2. Measurements are not given for the retaining wall or the grass verge where the hedgerow is to be removed. The plan does not appear to be accurate on highway adjoining boundaries which may have been tweaked to fit the proposal.
3. The highway 'road narrows' sign and 'double bend' sign will not be properly visible to motorists in the relocated position.

4. The engineering works associated with this proposal are inadequate given the very steep incline particularly in wet weather.
5. To turn from School Lane into the new entrance with a 16m long tractor and trailer, grain trailer, or anaerobic digester waste trailer, will mean a wide turning circle and driving onto the curtilage of the listed Lodge opposite to achieve the turn, crossing from one side of the lane to the other and needing high revs to get up the very steep gradient.
6. Given the size and weight of vehicles and narrow width of turn and very steep incline, there would increase the health and safety risks.
7. There are no pedestrian pavements along the very narrow School Lane making the risk to villagers and children even greater walking to school and The Bury.
8. The proposed drains are totally inadequate to deal with the rain water and storm water run off from the concrete pad - soil and mud will also be dragged onto the highway. In addition where does the storm water and soil go once it enters the chamber on the plan?

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The main issues in the determination of this application are:

- 1. Policy and procedure**
- 2. Justification for the development**
- 3. Highway matters and highway safety**
- 4. Design and appearance of the development and its visual impact on the landscape**
- 5. Drainage provision**
- 6. Other matters**

1. Policy and procedure.

This is a planning application which the applicant outlines is to reinstate an access and farm track to agricultural land on land at NGR 292482 101905, School Lane, Thorverton. However, it is noted that whilst there is an old gate post on site, there has been no access in any form for a significant period of time and therefore this proposal has been considered in the light of the creation of a new access to the agricultural land, in addition to improvements proposed to the existing access which arcs from the south off School Lane.

S.38 [6] of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the Development Plan, unless material considerations indicate otherwise. The National Planning Policy Framework [the Framework], published by the Government in March 2012, is noted as one such material consideration.

In addition to the NPPF, the Local Authority needs to determine this proposal on the basis of a number of policies contained within the Development Plan. In this instance, the relevant policies are considered to include COR1 [Sustainable Communities], COR2 [Local Distinctiveness], COR9 [Access], COR17 [Villages], COR18 [Countryside] of the Core Strategy and DM1 [Presumption in favour of sustainable development], DM2 [High quality design], DM22 [Agricultural Development] and DM27 [Development affecting heritage assets] of the Development Management Policies [Local Plan Part 3].

Policy COR1 of the Mid Devon Core Strategy [Local Plan Part 1] seeks sustainable growth which enhances the self-sufficiency of communities and provides access to education, jobs and sustainable transport. It seeks to provide accessible forms of development that reduce the need to travel by car and are integrated with public transport and other sustainable modes of travel and allow for ease of movement. Policy COR2 requires development to sustain the distinctive quality, character and diversity of Mid Devon's environmental assets through high quality sustainable design which reinforces the character and legibility of Mid

Devon's built environment and creates attractive places. Policy COR18 seeks to control development outside defined settlement limits to appropriate rural uses and COR17 relates to the development types acceptable for villages such as Thorverton.

In light of the policies within the Core Strategy and Development Management Policies, the key issue to be considered in respect to this proposal is that of the principle of the development taking into consideration the adopted and emerging planning policy relating to acceptable agricultural development, its design, highway safety and impact on the landscape and residential amenity. These matters and other planning considerations are considered further below.

2. Justification for the development.

COR18 establishes the principle of the types of development in the countryside and permits the provision of agricultural buildings/works. More specifically DM22 specifies that agricultural development will be permitted where:

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

The impact on the highway network, the environment and residential amenity are considered later in this report. In terms of the principle of this development, the proposal is for the reinstatement of an access which is required to improve the existing access arrangements onto the field from the narrow road to allow improved access from the north. The applicant's agent has noted that the description referring to the reinstatement of an existing gateway is correct given that there was previously a 12 foot wide gateway with evidence of a gatepost on site.

The applicant has confirmed that the Maize grown on the holding is ensiled in silage pits at his home farm at Higher Bagmores and that the Maize silage is to be consumed by cattle throughout the winter on that holding. It is therefore preferable to travel north through the village and then east to the main road network rather than south along narrow lanes. In addition to this, the applicant has commented that he farms land in the Shobrooke area, therefore being beneficial to be able to travel north through the village, the most direct route. In respect of the existing access onto site, the applicant's agent outlines that the current arrangements create a significant health and safety issue as tractors and trailers either have to reverse out onto the public highway or alternatively travel the distance to Yellowfiord farm whereby they are required to carry out a three point turn on the public road in order to travel back towards Thorverton. Both of these actions create significantly higher risk to the public and other road users than the proposed access.

Planning permission is required for this access due to School Lane being a classified road. In terms of ensuring the long term viability of an agricultural enterprise operating from this site, it is considered reasonable to permit this access to support the agricultural activity on the holding, with the proposal representing a betterment to access arrangements into the site.

3. Highway matters and highway safety.

The original plans provided as part of this planning application were considered insufficient to assess the impact onto the highway network with the Local Highway Authority requesting further information. Further plans have now been received which are considered to be acceptable by the Local Highway Authority subject to conditions.

Initially following the original submission, the Local Highway Authority noted objections making reference to the unit supplying fuel to an Anaerobic Digestion plant in Clyst St Mary and that before the Highway Authority could make a full assessment of this application recommended that the Local Planning Authority seek a response from the applicant into the figures identified. As reported earlier, the applicant has confirmed that the maize on this field is grown to be consumed by cattle. However, in any event the Local Highway Authority has further commented that they would discount this objection as the fields would be able to be used for crops without further planning consent and that looking at the figures to the annual generations the daily movements would be limited, albeit the land is going to be seasonal, but the generations would be the same as if the crop is used for fodder on any other part of the holding or sold to any other farming enterprise.

On this point, whilst these comments are noted from objectors, it is considered that the case can be made that this access would be beneficial to the farming enterprise of the applicant given that they want to travel through the village to get on to a main road rather than use single narrow lanes and that they farm land in the Shobrook area whereby it would be logical for them to be able to travel north from this site through the village or vice versa. Movements which can take place today but requiring the turning of vehicles further south along School Lane. The applicant's agent has noted there is currently access to the field from the public highway and currently no restriction on transport movements and that this application seeks to improve the health and safety aspect of the field entrance and is required given that there are no existing farm buildings on site.

With respect to traffic generation, it is not considered that there would be a significant increase of traffic onto the site from what could take place now. The objections received are predominantly on the basis that the access as shown would allow for more heavy agricultural traffic to pass by the primary school and through the centre of the village which would represent a highway danger to all road users. It is noted that there has been conflicting reports received from residents of Thorverton through the objections received, some stating that no agricultural vehicles from the farming operations carried out on site have travelled north along the lane and through the village to those complaining of the size and frequency of agricultural vehicles travelling through the village as a result of the combined farming enterprise of the applicant. In any event, the direction of traffic is not a matter that can be controlled as the applicant can leave the site and then turn the vehicles around where possible in order to travel in the opposite direction and the Local Highway Authority do not object on highway safety grounds.

In terms of highway safety, the proposal as now submitted shows that the access would be 3.7m wide and have a minimum radii of 10m. Another requirement would be for the new access to achieve a gradient of 1:10 which the Local Highway authority believe can be achieved, allowing for this gradient to a distance of 8 metres back from the carriageway edge with the existing access to be improved to reduce the steep nature of the current access with both accesses having a concrete surface with a drainage channel to deal with surface water run-off. Visibility for the proposed access would be achieved through the lowering of the bank for a distance of 2 metres from the carriageway edge with a new grass verge area created on the highway side of the bank. Agricultural vehicles leaving the site would therefore be able to view pedestrians on the road in front.

It should be noted that further information was requested from the applicant's agent following on from questions raised by Members at Planning Committee relating to topographical

information and the location of a soakaway. This information has been received prior to the Planning Committee where Members will be updated.

4. Design and appearance of the development and its visual impact on the landscape and character of the Conservation Area.

As referred to above, a new grass verge would be created with the lowering of an area of existing bank, with a retaining wall constructed having a rubble stone face. Following the original submission and requirements outlined by the Local Highway Authority, the applicant considered three alternative proposals, the first to create a larger single access onto site involving the removal of the complete bank, the second option being to keep the existing access from the south and have a new access to the north allowing the existing bank to be retained but lowered in height down to approximately 1 metre in order to achieve visibility in either direction, or to keep the existing access from the south and have a new access to the north but with the bank cut back approximately 2 metres allowing for a grass verge or increased carriageway width in front of the existing bank (kept at the height it is currently). The latter option was chosen as the creation of a grass verge is more in keeping with the small grass verge on the opposite side of the road.

It is not considered that the proposed access results in any significant environmental impacts, being read in context with the purpose of being an agricultural access onto the farm land. The site is opposite the conservation area with a number of objections received on the basis that a new concrete access would detract from the character of the area. However it is not considered that the 3.7m wide access shown with the creation of grass verge will harm the setting of the heritage asset of the conservation area with the Conservation Officer raising no objection to the proposal on the basis that the development is implemented in accordance with the amended plans received. It is therefore considered in accordance with policy DM27.

5. Drainage provision

As referred to earlier in the report, a drainage channel is shown to be installed for both the existing and proposed access with water to drain to a soakaway area as shown on the submitted plan. This detail is considered to be acceptable by the local highway authority with an improvement to the existing access onto site. Therefore the drainage provision for the development is considered to comply with Policy DM2 of the Local Plan Part 3 Development Management Policies.

6. Other matters

In terms of any impact on amenity of neighbouring residential properties, it is only considered that occupiers of The Lodge opposite the site could be affected, but given the gradient changes and frequency of use, it is not considered that there would be a significant detrimental impact on amenity. Agricultural traffic can pass the property currently and the sweep path of the access means that traffic will be concentrating on the access and views along the lane to oncoming traffic rather than directly into the property.

In terms of objections received relating to this development, it should be noted that the proposal is for an access into the agricultural land, not on how the land is to be farmed and for what purpose, or whether it is intended to be used for housing in the future, the latter requiring planning permission in any event. Water run-off from the agricultural activity taking place on the field is also not a matter to be considered as part of this application as this application only relates to the access arrangements onto the site and whether these would be acceptable in policy terms which they are considered to be.

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. Following the implementation of the planning permission both the southern splay of the existing access and that of the northern splay of the proposed access shall remain open and be available for use thereafter.
3. All planting, seeding, turfing or earthworks (including construction of a retaining wall block faced with random rubble) comprised in the approved details of landscaping as shown on the submitted plans, shall be carried out within 9 months of the substantial completion of the development, (or phase thereof), whichever is the sooner; and any trees or plants which within a period of five years from the implementation of the scheme (or phase thereof), die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species. Once provided, the landscaping scheme shall be so retained.
4. Prior to its first use on site, a sample of the proposed stone to be used for the proposed random rubble wall shall be submitted to and approved in writing by the Local Planning Authority and no other stone shall be used.
5. No part of the access drive hereby approved shall be laid out at a gradient steeper than 1 in 10 for the first 8 metres back from the edge of the highway carriageway.
6. Notwithstanding the submitted details, the surface water drainage of the site shall be designed as to prevent the discharge of surface water onto any highway in accordance with details that shall first have been submitted to and approved in writing by the Local Planning Authority. Drainage shall be implemented in accordance with the approved details and so retained.

REASONS FOR CONDITIONS

1. In accordance with the provisions of Section 51 of the Planning and Compulsory Purchase Act 2004.
2. For the avoidance of doubt and in the interests of proper planning and to achieve safe access to and from the site in a manner which does not cause significant danger and inconvenience to other road users in accordance with Policies DM2 and DM22 of the Local Plan Part 3: (Development Management Policies).
3. To ensure that the development makes a positive contribution to the character and amenity of the area in accordance with Policies DM2, DM22 and DM27 of the Local Plan Part 3: (Development Management Policies).
4. To safeguard the character and appearance of the locality including the adjacent Conservation Area in accordance with Policies DM2, DM22 and DM27 of the Local Plan Part 3: (Development Management Policies).
5. In the interest of highway safety in accordance with Policies DM2 and DM22 of the Local Plan Part 3: (Development Management Policies).

6. To prevent damage and to restrict the surface water running onto the highway in the interests of highway safety in accordance with Policies DM2 and DM22 of the Local Plan Part 3: (Development Management Policies).

INFORMATIVE NOTE:

1. You are advised that surface water drainage details required under condition 6 shall be inclusive of but not limited to drainage channel (not Acco drainage), soak away details and porosity rates in order that provision be made within the site for the disposal of surface water so that none drains on to any County Highway.

REASON FOR/ APPROVAL OF PERMISSION/GRANT OF CONSENT

The application for the proposed access is considered to be supportable in policy terms. The new access arrangement is required in order to improve the current access arrangements onto the field due to substandard nature of the existing access and the size and nature of agricultural vehicles accessing the farmland from a narrow lane. The development is reasonably necessary to support the farming activity on the holding with the applicant confirming that they farm this land to grow feed for cattle. Whilst the proposal represents an additional access onto the site with an area of bank lowered to improve visibility, it is not considered that the access as shown on the submitted drawings would result in significant harm to the character and appearance of this rural area including the adjoining conservation area. It is also not considered that the proposal results in any significant adverse impacts on the amenity of nearby occupiers, the environment or the highway network. Overall the proposal is considered to be compliant with Policies COR2 and COR18 of the Mid Devon Core Strategy, DM1, DM2, DM22 and DM27 of the Local Plan Part 3 (Development Management Policies) and government advice in the National Planning Policy Framework.

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

Application No. 17/01411/FULL

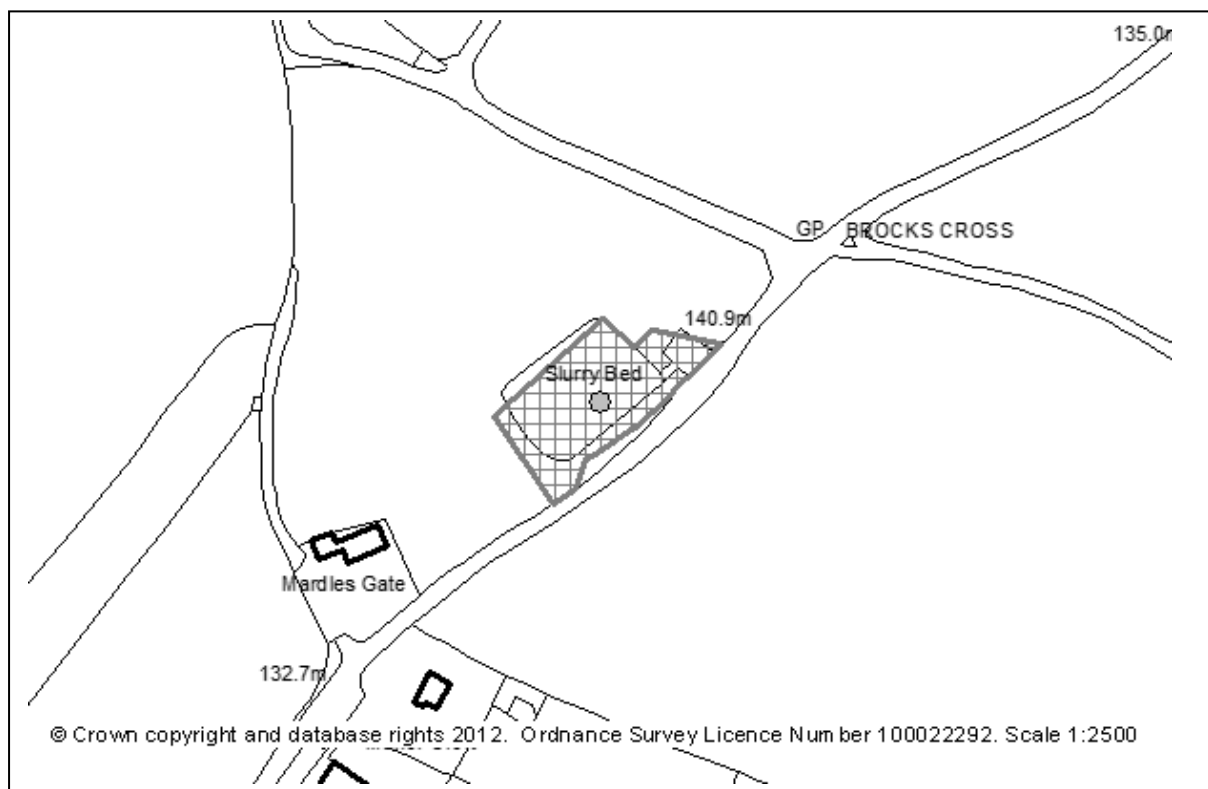
Grid Ref: 276387 : 99761

Applicant: Mr G Pitts

Location: Land at NGR 276429 99746 (Adjacent to Mardles Gate)
Colebrooke
Devon

Proposal: Retention of slurry lagoon

Date Valid: 23rd August 2017



APPLICATION NO: 17/01411/FULL

RECOMMENDATION

Grant permission subject to conditions

PROPOSED DEVELOPMENT & RELEVANT HISTORY

The application is a retrospective submission for the retention of a Slurry Lagoon (5,250 cubic square metre capacity) with an earth bank around it up to approximately 1.5 metres to store dirty water arising from the dairy unit at Brocks Farm. In addition a formal access (previously standard 5bar low level farm gate) has been provided. The development was carried out in Summer 2016. The site was first visited by an enforcement officer on the 14th June 2016.

This application was validated on 23rd August, following consideration of LPA ref: 17/00034/FULL at the planning committee meeting on the 12th July (committee report attached as appendix A) which was refused for the following reason.

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

This current application submission has sought to address the reason by way of an odour management plan confirming that the lagoon will be fitted with a floating slurry tank cover and setting out a specific process for the filling of the lagoon of it by pipeline only and emptying via an outlet pipe utilising an umbilical cord methodology.

APPLICANT'S SUPPORTING INFORMATION

In addition to submitting the Odour Management Plan the applicant has also submitted an odour impact assessment, incorporating revisions received on 29/01/2018, and an Operational Management Plan. For the avoidance of doubt the applicant through the documentation is proposing as follows.

DELIVERY OF MATERIAL. Material will be delivered into the lagoon via a 4" underground pipe which is to be installed if retrospective planning consent is granted. Material collected in a holding tank close to the dairy unit will be pumped via the pipe into the lagoon and discharged below the level of the floating cover.

In addition the applicant has submitted a plan showing the route of the pipe run.

EXTRACTION OF MATERIAL. Extraction of the material will take place via a separate outlet pipe that will operate by gravity and be connected to an umbilical cord that will be towed behind a tractor when spreading takes place across the farmland.

FITTING OF THE COVER. A condition can be applied to the grant of planning consent requiring that the cover to the lagoon should be fitted within six calendar months of the grant of planning consent.

DEVELOPMENT PLAN POLICIES

Mid Devon Core Strategy (Local Plan 1)

COR2 - Local Distinctiveness

COR18 - Countryside

Mid Devon Local Plan Part 3 (Development Management Policies)

DM1 – Presumption in favour of sustainable development

DM22 - Agricultural development

DM30 - Other protected sites

DM7 - Pollution

DM2 - High quality design

CONSULTATIONS

COLEBROOKE PARISH COUNCIL - 27th November 2017

Colebrooke Parish Council met on the 21st November and resolved that the Council was neutral in respect of the application but confirmed that the Council wanted all the conditions that they had set down in relation to the first application to be met. In addition the Council asked for two additional conditions: 1. There should be a through bund supply pipe to prevent the crust being broken 2. There should be a permanent discharge suction pipe that does not break the crust. They further requested that all this action should be taken within 2 months

COLEBROOKE PARISH COUNCIL - 5th March 2018 - Colebrooke Parish Council met on the 27th February and resolved to object to this application on the grounds of 1. Odour 2. Impact on the Community 3 Concern about capacity

The Council wish to send representatives to the Planning Committee when this application is considered when they would ask for the opportunity to explain their concerns in full

NATURAL ENGLAND - 13th September 2017 - The advice provided in our previous response applies equally to this resubmission although we made no objection to the original proposal. No objections raised

ENVIRONMENTAL HEALTH – 14th September 2017 (See also comments further comments set out below).

Contaminated land - No objection

Air quality - No objection

Environmental permitting - N/a

Drainage - No objection

Noise and other nuisances - I am not satisfied that the proposed mitigation measures will be sufficient to mitigate against possible odour emissions from the lagoon due to the close proximity of residential dwellings. Therefore, further information is required on the odour emissions from the site need to be assessed for potential impact on these dwellings by a competent person.

An Odour Impact Assessment is required in order to identify the following:

All potential sources of odour and their estimated rates of emission from the lagoon;
The potential for fugitive emissions of odour together with the means to control these emissions;
The location of sensitive receptors;
A wind rose for the site;
Potential pathways to sensitive receptors;
A description of the potential impacts including evidence provided by dispersion models;
Details of any necessary odour abatement systems or other mitigation measures with justifications for the measures being proposed;

And

Details of an Odour Management Plan (OMP) with contingency arrangements for responding to any unforeseen or unusual odour emission episodes.

Without this information I would recommend that this application is refused.

Further comments on 31st October 2017 - The assessment would seem to be a robust assessment and taking the report into consideration I would change my recommendation to:

I recommend approve with conditions:

The applicant must install and maintain in good order a full plastic sealed floating cover (or similar) in order to reduce the likelihood of any odour emissions from the lagoon.

Further comments received on the 26th February 2018 following a review of the Odour Impact Assessment (Revised Details)

In general terms odour levels of $>5\text{ouE/m}^3$ may constitute an annoyance or nuisance whereas odour levels $<3\text{ouE/m}^3$ are less likely to constitute a nuisance or to be detrimental to the local amenity (Guidance on the Assessment of Odour for Planning 2014) however, this does not mean that the impact of odour emissions from an approved site cannot lead to nuisance complaints.

The H4 Odour Management guidance document (used by the Environment Agency to deal with odour from permitted sites) set odour benchmarks based on the 98th percentile of hourly mean concentrations of odour modelled over a year at the site/installation boundary. The benchmarks are as follows:

- 1.5ouE/m^3 for most offensive odours.
- 3.0ouE/m^3 for moderately offensive odours.
- 6.0ouE/m^3 for less offensive odours.

Odours from agricultural activities are placed in the moderately offensive category. Therefore, taking the above into consideration the benchmark for moderately offensive odours would be under a 98th percentile hourly mean of 3.0ouE/m^3 over a one year period.

The Brocks Cross Lagoon Odour Impact Assessment (Jan 2018) indicates that with the lagoon fully covered the odour impact on nearby residential dwellings will be under the C98,1-hour 3ouE/m^3 limit and therefore, the odour impact on any nearby residential dwellings will not be significant.

Having reviewed the Odour Impact Assessment the assessment appears to be a robust assessment and taking this into consideration I recommend the approval of the application subject to the following condition:

A full Odour Management Plan (OMP) is required in order to demonstrate that odour emissions will be adequately controlled to prevent a significant loss of amenity to neighbouring sensitive land users. Use of the proposed site shall not commence until the OMP has been agreed in writing with the Local Planning Authority. The installation and maintenance requirements of the cover (in accordance with the manufactures recommendations) will form part of the OMP along with rainwater removal from the cover.

Reason: To ensure that the proposed development does not prejudice the amenities of the locality by reason of odour nuisance.

Further Comments received on the 23rd March 2018 following a review of the Odour Management Plan.

I am happy with the new OMP but I would recommend that the cover is installed within 3 months in order to protect the amenity areas of local residential dwellings.

Highway Authority - 11th September 2017 – No specific comments were made on this application but the section below set out the comments from the Highway Authority on the earlier application (17/00034/FULL).

Comment Date: Fri 26 May 2017 - I have visited the site and the Highway Authority has no objections in principle, however the current access to the field is substandard in terms of construction, visibility and drainage.

Therefore the application should be conditional on the provision of visibility splays measuring 2.4 m back along the centre line of the access and extending to a point 25m either side of the access with no obstruction greater than 600mm. The access should be constructed in a bound material (tarmac or concrete) for the first 6.00m back from the edge of the carriageway, and should be drained so as to prevent surface water slurry and detritus entering the public highway. In addition to which the gates should be hung to open inwards. Therefore the following conditions should be imposed

Recommendation:

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

1. Visibility splays shall be provided, laid out and maintained for that purpose at the site access where the visibility splays provide intervisibility between any points on the X and Y axes at a height of 0.60 metres above the adjacent carriageway level and the distance back from the nearer edge of the carriageway of the public highway (identified as X) shall be 2.40 metres and the visibility distances along the nearer edge of the carriageway of the public highway (identified as Y) shall be 25.00 metres in both directions.

REASON: To provide adequate visibility from and of emerging vehicles.

2. In accordance with details that shall previously have been submitted to, and approved by, the Local Planning Authority, provision shall be made within the site for the disposal of surface water so that none drains on to any County Highway

REASON: In the interest of public safety and to prevent damage to the highway

3. The site access road shall be hardened, surfaced, drained and maintained thereafter to the satisfaction of the Local Planning Authority for a distance of not less than 6.00 metres back from its junction with the public highway and any gates should be hung to open inwards
REASON: To prevent mud and other debris being carried onto the public highway

REPRESENTATIONS

4 objections from local stakeholders have been received whilst the application has been assessed.

1. The current occupation of the neighbouring residential property Mardles Gate is confirmed as lawful.
2. The Lagoon is considered to be too close to the neighbouring residential dwellings causing an intolerable odour problem for residents.
3. The accuracy of the Odour Impact Assessment as submitted is questionable and not considered fit for purpose. Detailed comments as below:

I am concerned that the depiction of this feature in the supporting documentation, the aerial photography and site location plan, does not appear to be an accurate representation of the object that exists on the ground. The existing feature appears to be situated further to the southwest than shown, possibly by as much as 20m, and, consequently, closer to the nearby properties. Much of its supporting documentation, particularly the Odour Impact Assessment, relates to a seemingly erroneous location and would therefore be unfit for purpose. I fail to see how, given the sensitivity of this case, an application could be made and considered without a true and metrically accurate depiction of this feature in relation to its immediate environs and in particular the built environment.

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The officer report for planning application reference 17/00034/FULL is attached this report at appendix A. The application was refused and as stated in the conclusion section of the report, it was recommended that further investigations be undertaken with the applicant to identify an alternative site to locate the Slurry Pitt. However, prior to commencing an evaluation of alternative sites across the holding the applicant submitted this current application for consideration which is now required to be determined.

This next section of this report provides an assessment of the extent to which this application satisfactorily addresses the reason for refusal of the earlier application.

The implications of the development on living condition of the neighbours properties.

There are two residential properties not connected to the farming enterprise in close proximity to the lagoon, the closest being Mardles Gate, the garden of which is less than 40.0 metres from the boundary of the site. The other property is Manor Croft. The garden areas to these properties have a clear relationship to the lagoon.

The lagoon with its banks forms a dominant element in views from these properties, although the distance is sufficient not to create an oppressive outlook within the nearby houses or their gardens and there are no significant harmful effects on outlook from the properties.

It is accepted that the unauthorised slurry lagoon results in detriment to the amenities of the area by virtue of odour impacts in particular arising from when it is being filled and emptied. Although when the earlier application was being considered the applicant offered to seek to redress the odour issues by arranging to fit an airtight membrane to the Lagoon no details of

the installation or any other odour reduction methods were submitted for consideration. Furthermore given that there was no evidence that a cover, and/or other odour reduction methods, would be adequate to offset the inherent issue of closeness to residential occupiers in terms of odours arising, the application was refused.

With this current application the applicant has submitted an odour impact assessment to provide an evidence base to support the principles set out in the odour management plan as set out above.

The scope of the impact assessment has used a dispersion modelling process to allow comparison between impacts associated with the operation of the facility under different emission scenarios (covered and uncovered). Emissions data used in the scenarios is derived from published library data for cattle slurry.

Although the robustness of the evidence base has been challenged, the applicant's consultant has provided clarification points to satisfy the Local Authorities Environmental Health officer with regards to the conclusions of the assessment. A summary of the assessment as now agreed is set out below.

1. The result of this quantitative assessment is that it can be concluded that the operation of an uncovered lagoon is likely to lead to unacceptable odour impacts at residences. The results also indicate that the model is over predicting the impact as a result of the high emission rates applied and the assumption that the lagoon is full of this odorous material for the entire year.
2. The operation of a (fully) covered lagoon is likely to be acceptable based on the results of the dispersion modelling requested by the Council.

Therefore subject to controlling the future use of the Slurry Pitt lagoon in terms of filling it and emptying it, the provision of a fitted cover is considered to redress the odour impacts that have been an ongoing concern since the Lagoon was formed, and was the basis for refusing the earlier application. Whilst the applicant has requested up to 6 months to install the necessary infrastructure, a shorter time period of 3 months is considered more appropriate to ensure the impact on the neighbouring occupiers is redressed in a reasonable timescale. This also reflects the time period for which the matter has been going through the assessment and resolution stages.

Access / Movement Issues

As stated above the applicant has formed a new access in the position of a former 5 bar gate access. Clarification is being sought as to the nature of the spreading methodology, and if vehicular access to the lagoon site is still required to facilitate spreading the conditions as recommended by the Highway Authority when consulted on application LPA ref: 17/00034/FULL and as set out above in this report will be recommended to control the ongoing use of the facility. An update will be provided to members on this matter before the meeting on the 18th April.

Planning Balance, Conclusion and the Way Forward

It is recognised that the lagoon could improve the efficiency of the farm business and foster its development, although it is noted the applicant has not chosen to provide any evidence to clarify why the application site was identified across the holding, and whether any other sites

had been considered. Notwithstanding the absence of this information (and therefore the Council cannot be satisfied that the application scheme is the only location to accommodate the lagoon) a decision is required to be made on this current application.

The Council have assessed the impact of the development as it has been constructed and have concluded that it adversely affects the living conditions of neighbouring occupiers in its current state and form. When the earlier application was being considered there was not a robust evidence base to clarify that the odour impacts could be satisfactorily addressed and the scope of measures required to achieve an acceptable resolution. This evidence base, as originally submitted has been subject to a critical review and the LPA's Environmental Health officer has confirmed that the odour impacts could be satisfactorily mitigated by the measures outlined in the odour management plan (OMP) as summarised above. Conditions are drafted to control the ongoing use of the currently unauthorised development and requiring the terms of OMP to be operational within a three month time frame.

With these controls in place if the land owner were to breach the terms of conditions in relation to manner in which the lagoon is filled and/or emptied the Local Planning Authority would be in a position to enforce the terms of the development by serving a breach condition notice and a stop notice to cease its operational use in an unlawful manner.

On this basis, and subject to the conditions as recommended, it is considered that the application scheme is on balance compliant with the following development plan policies: COR2 and COR18 of the Mid Devon Core Strategy (Local Plan Part 1), DM1 and DM22 and Government advice in the National Planning Policy Framework

CONDITIONS

1. The date of the grant of planning permission is considered to be 23rd August 2017 which is the date that the application was registered.
2. The approved plans are listed in the schedule on the decision notice.
Notwithstanding the approved plans, within 3 months of the date of this decision notice the lagoon cover as set out in the Operational Management Plan hereby submitted and approved shall be installed at the site and retained for the lifetime of the use of the lagoon and managed as such thereafter in accordance with the terms as set out in the agreed Operational Management Plan.
3. Once the lagoon cover has been installed as required by condition 2 material shall only be delivered to the site in accordance with the terms as set out in the agreed Operational Management Plan.
4. Once the lagoon cover has been installed as required by condition 2 material shall only be removed from the site in accordance with the terms as set out in the agreed Operational Management Plan

REASONS FOR CONDITIONS

1. To reflect the retrospective nature of the application submission and in accordance with the provisions of the Town and Country Planning Acts.
2. For the avoidance of doubt, in the interests of proper planning and to limit the adverse impacts of the ongoing use of the lagoon on the living conditions of local residents in accordance with Policy DM22 of the Local Plan Part 3 (Development Management Policies).

3. To limit the adverse impacts of the ongoing use of the lagoon on the living conditions of local residents in accordance with Policy DM22 of the Local Plan Part 3 (Development Management Policies)
4. To limit the adverse impacts of the ongoing use of the lagoon on the living conditions of local residents in accordance with Policy DM22 of the Local Plan Part 3 (Development Management Policies).

REASON FOR/ APPROVAL OF PERMISSION/GRANT OF CONSENT

It is recognised that the Lagoon could improve the efficiency of the farm business and foster its development, however the critical influencing factor in the decision making process of this retrospective application is the close proximity of it to neighbouring properties. This application is a resubmission of an earlier application (LPA case ref: 17/00034/FULL). This current application has been submitted with a robust evidence base to clarify that the odour impacts could be satisfactorily addressed and the scope of measures required to achieve an acceptable resolution. The Council have assessed the impact of the ongoing use of the lagoon which was constructed without the benefit of planning approval, and subject to a number of conditions to ensure the ongoing compliance with the agreed Operational Management Plan, this current application is considered on balance to be acceptable. On this basis, and subject to the conditions as recommended, it is considered that the application scheme is on balance compliant with the following development plan Policies: COR2 and COR18 of the Mid Devon Core Strategy (Local Plan Part 1), DM1 and DM22 of the Local Plan Part 3 (Development Management Policies) and Government advice in the National Planning Policy Framework.

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

APPENDIX A: Application No. 17/00034/FULL

Grid Ref: 276387 : 99761

Applicant: Mr G Pitts

Location: Land at NGR 276429 99746 (Adjacent to Mardles Gate)
Brocks Cross
Colebrooke
Devon

Proposal: Retention of slurry lagoon

Date Valid: 9th May 2017

Application No. 17/00034/FULL

RECOMMENDATION

Refuse permission.

PROPOSED DEVELOPMENT

This application seeks the retention of a slurry lagoon measuring some 50m x 35m and some 3m deep (5,250 cubic square metre capacity) with an earth bank around it up to approximately 1.5 metres to store dirty water arising from the dairy unit at Brocks Farm. In addition a formal access (previously standard 5bar low level farm gate).

The development was carried out in Summer 2016. The site was first visited by an enforcement officer on the 14th June 2016.

APPLICANT'S SUPPORTING INFORMATION

The application was first submitted back in January but with insufficient information for it to be registered.

The application was finally registered on 9th May 2017. The application includes the Completed application form, and accompanying plans/drawings and an email setting out that the applicant considers that the application site is the most suitable site on his holding (Brocks Farm) to accommodate the development. This involves one tanker a day from Brocks farm being emptied into the lagoon (2 vehicular movements). The content is then spread over the holding between February - October (2 or 3 times) using a pumping system.

In a supporting email from the applicant reference is made to redressing any odour issues with an airtight membrane and proposing strategic tree planting. However no details of either have been formally proposed.

PLANNING HISTORY

No applications various agricultural applications for the farm but nothing on this site.

DEVELOPMENT PLAN POLICIES

Mid Devon Core Strategy (Local Plan 1)

COR2 - Local Distinctiveness

COR18 - Countryside

Mid Devon Local Plan Part 3 (Development Management Policies)

DM22 - Agricultural development

DM30 - Other protected sites

DM7 - Pollution

DM2 - High quality design

CONSULTATIONS

NATURAL ENGLAND - No Objection

ENVIRONMENT AGENCY - NO comments submitted

COLEBROOK PARISH COUNCIL - Comment Date: Wed 07 Jun 2017 - Colebrooke Parish Council held an extraordinary meeting on the 6th June to consider this planning application. Seven members of the public were present including the applicant.

The Council regretted that the proper process had not been followed in this case. In principle the Council is keen to be supportive of any local enterprise but wanted to reflect the interests of other residents. The applicant indicated that he was willing to take a number of steps to address residents' concerns namely:

1. A structural survey to address the issues of safety
2. All the actions recommended by Highways in their comments on the application
3. Placing an effective lid on top of the slurry lagoon to eliminate all odour
4. Water testing every two weeks (currently showing clear water)
5. Ensuring the facility was now locked at all times
6. Planting of trees to improve the visual impact

The Council resolved that if all the above measures were taken so that residents' concerns were eliminated then they would support the application to retain the slurry lagoon at its present location. The Council was particularly concerned that the odour problem would be eliminated.

ENVIRONMENTAL HEALTH - Comment Date: Mon 22 May 2017

Contaminated land - No objection

Air quality - No objection

Environmental permitting - N/A

Drainage - No objection

Noise and other nuisances - I have taken into consideration that people living and working in a rural environment should occasionally be expected to be affected by a reasonable level of odour from the keeping of livestock, storage and spreading of slurry/FYM. However the incursion of a slurry lagoon at around 60m from the nearest residential property does raise concerns in terms of odour nuisance. Having carried out a site visit and looked at the close proximity of the existing residential properties in my view the development has the potential to give rise unreasonable levels of odour for extended periods of time and therefore, enforcement action could be justified under sections 79(1) (d) of the Environmental Protection Act 1990. Taking this into consideration I would recommend that the application is refused.

Housing standards - No comments

Licensing - N/A
Food hygiene - N/A
Private water supplies - N/A
Health and safety - No objection - enforced by HSE

Further comments from Environmental Protection Officer received on 21st June 2017:

In order to control the levels of odour from the new storage lagoon guidance has been sought from the Department for Environment Food and Rural Affairs (DEFRA). DEFRA recommends that slurry and manure stores should not be located within 400m of a residential development (Dirty water, in legal terms it is still defined as slurry).

The Environment Agency recommends that any proposed slurry lagoon within 200m to a neighbouring residential property or protected building should provide a specific Odour Management plan which would also include an Odour Impact Assessment. An Odour Impact Assessment is used to establish the potential implication of odour generated from the storage of slurry upon neighbouring residential or protected properties. Whereas a slurry lagoon over 200 metres from a neighbouring residential property or protected building the need for a lagoon cover or other management intervention to deal with flies and odours is less likely.

The problem with this application is the close proximity of neighbouring residential properties to the slurry lagoon. At 40m to the nearest residential property I am not convinced that even with a cover that odour at times (during loading and unloading) will still have the potential to cause a statutory odour nuisance even with an odour management plan in place therefore, I am still recommending that the application is refused.

HIGHWAY AUTHORITY - Comment Date: Fri 26 May 2017 - I have visited the site and the Highway Authority has no objections in principle, however the current access to the field is substandard in terms of construction, visibility and drainage.

Therefore the application should be conditional on the provision of visibility splays measuring 2.4 m back along the centre line of the access and extending to a point 25m either side of the access with no obstruction greater than 600mm. The access should be constructed in a bound material (tarmac or concrete) for the first 6.00m back from the edge of the carriageway, and should be drained so as to prevent surface water slurry and detritus entering the public highway. In addition to which the gates should be hung to open inwards. Therefore the following conditions should be imposed

Recommendation:

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

1. Visibility splays shall be provided, laid out and maintained for that purpose at the site access where the visibility splays provide intervisibility between any points on the X and Y axes at a height of 0.60 metres above the adjacent carriageway level and the distance back from the nearer edge of the carriageway of the public highway (identified as X) shall be 2.40 metres and the visibility distances along the nearer edge of the carriageway of the public highway (identified as Y) shall be 25.00 metres in both directions.

REASON: To provide adequate visibility from and of emerging vehicles.

2. In accordance with details that shall previously have been submitted to, and approved by, the Local Planning Authority, provision shall be made within the site for the disposal of surface water so that none drains on to any County Highway

REASON: In the interest of public safety and to prevent damage to the highway

3. The site access road shall be hardened, surfaced, drained and maintained thereafter to the satisfaction of the Local Planning Authority for a distance of not less than 6.00 metres back from its junction with the public highway and any gates should be hung to open inwards

REASON: To prevent mud and other debris being carried onto the public highway

REPRESENTATIONS

3 letters of objection received raising the following issues;

1. It has not been lined. I'm concerned that there will be natural seepage through what is a quite sandy soil, and our land lies downhill from the lagoon. There are a set of very clear springs at the base of the hill, which used to supply the village, and I am concerned that these and the rest of our land could be compromised.
2. Perhaps another site would be more suitable.
3. I regularly walk or cycle past it and can confirm that the stench from it is intolerable.
4. Have concerns about its location close to the road. What provision has been made to protect the adjacent property and the lane from being flooded should the lagoon overflow?
5. The lagoon is uphill and only approx 40 metres from my home. Given that it was constructed without the necessary planning permissions I am unsure as to whether it conforms to the relevant structural and environmental requirements. I am worried that should the structure fail my home could be in danger.
6. The smell from this structure can, at times be overpowering. During the recent hot weather and many times previously I was unable to leave washing to dry outside my home and had to keep all the windows closed. This is an intolerable situation.
7. During and after construction (summer 2016) I was informed by several parties (minuted on the Colebrooke Parish Council website) that the structure was only to be used as a dirty water store. The resulting clean water to be used to clean the adjacent lanes. It is interesting that the application now concerns a slurry lagoon. There appears to be a degree of misinformation.

1 letter of support has been received raising the following points;

1. Slurry lagoons are nothing new. A modern dairy farm such as Brocks farm will inevitably have one associated with it. This farm also supports the agricultural infrastructure of the immediate area.
2. The odour problem on emptying is short lived as the slurry is pumped in closed pipework to the field and direct injected in an almost smell free operation.

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The main determining factors in this application are:

1. Policy
2. The implications of the proposed development on living condition of the neighbours properties.
3. Impact on the character and appearance of the area.
4. Loss of Grade 2 agricultural land
5. Other Matters
6. Planning Balance & Conclusion

1. Policy Issues

The site is outside settlement limits and is therefore in the open countryside. Local and national planning policies make clear that new development in the countryside should be controlled. However, there is also scope for essential agricultural development to be permitted given the contribution agriculture makes to the character of the countryside and the necessity for such development to be located in rural locations. Policy COR18 of the Mid Devon Core Strategy (Local Plan Part 1) permits agricultural uses.

The NPPF is supportive of the rural economy as well as balancing the need to protect the environment and amenity.

Policy DM22 requires that new, reasonably necessary, agricultural development supports farming activity and is sensitively located to limit any adverse effects on the living conditions of local residents and is well-designed, respecting the character and appearance of the area. In this case, the applicant has indicated why the proposed development is reasonably necessary. Policy DM30 is also a relevant consideration as the site lies within the impact zone of the Nymet Barton Marsh SSSI.

2. The implications of the development on living condition of the neighbours properties

There is a body of case law that holds that fears about the harmful effects of a development are capable of being a material consideration, notwithstanding that there is no objective evidence to support such a fear.

There are two residential properties not connected to the farming enterprise in close proximity to the lagoon, the closest being Mardles Gate, the garden of which is less than 40.0 metres from the boundary of the site. The other property is Manor Croft. The garden areas to these properties have a clear relationship to the lagoon.

The lagoon with its banks forms a dominant element in views from these properties, although the distance is sufficient not to create an oppressive outlook within the nearby houses or their gardens and there are no significant harmful effects on outlook from the properties.

However, there are good grounds to conclude that there would be a considerable risk of adverse effect on neighbouring residents due to odour, both within the two closest dwellings and in their gardens. The evidence base to prove this is set out in the representations from local residents and on the occasions the site has been visited by the planning case officer (including 15/05 and 08/06).

As stated above whilst the applicant offered to address any odour issues with an airtight membrane no details of such or any other odour reduction methods have been submitted. Therefore there is no evidence that a cover, and/or other odour reduction methods, would be adequate to offset the inherent issue of closeness to residential occupiers in terms of odours arising. Furthermore given the response provided by the Council's Environmental Protection Officer it is not considered that the harm that has been caused can be satisfactorily mitigated in the long term with an appropriately worded condition in the event that planning permission was to be granted.

In summary given the development has already been carried out (retrospective permission being sought) the transmission of odour from the lagoon is considered to have a harmful impact on the living conditions of neighbouring residents, which would not be adequately mitigated by proposed management techniques. In addition one of the neighbouring properties is concerned with the impact of a leak or breach of the earth bund in that the

property is downhill of the lagoon and in close proximity of lagoon. This fear is also considered to be a material consideration in the determination of this application.

In arriving at this conclusion it is recognised the site sits as part of an agricultural holding where there would be an expectation for ongoing associated activities although for approximately 6 months of year spreading is not permitted as the field area adjacent to the residential properties (including where the lagoon has been constructed) is within a nitrate vulnerable zone (NVZ).

The proposal is therefore considered to be contrary to Policies DM2, DM7 and DM22, which respectively seek to prevent unacceptable adverse impacts on the amenity of neighbouring properties (health and general living conditions), and direct that where new uses individually and cumulative result in harmful impacts, in this case primarily odour nuisance impacts, planning permission should be refused. These policy objectives are consistent with the guidance of the National Planning Policy Framework ('NPPF'), whose core principles include the achievement of a good standard of amenity for all existing and future occupiers of land and buildings.

3. Impact on the Landscape Character and Appearance of the area

The site is rural in character but is not within any statutory protected landscape designation, and sits within the Devon Redlands National Character Area. The Devon Redlands National Character Area (NCA) covers a diverse area, stretching from the fringes of Exmoor NCA in the north to the Exe Estuary and coast in the south, and from the edge of Dartmoor NCA and The Culm NCA in the west to Blackdowns NCA in the east. This generally low-lying, fertile NCA is centred on the north-south axis of the Exe Valley, with an important extension to the west through Cridton, intruding into The Culm NCA and the north-eastern fringes of Dartmoor NCA. Towards the edges of the Devon Redlands NCA, the landscape becomes more diverse in character.

At a local level, the site is located within the lowland plains character area. This landscape is described as "typically present in the Cridton area and east of the River Culm. It has an open, low lying flat landscape and is a prosperous agricultural area. Primarily managed as arable farmland with some areas of improved grassland. This is a traditional Devon landscape where the Redland characteristics are superimposed on the rolling landform of the Culm giving great soil fertility." Its special characteristics include "a highly fertile arable landscape which is valued for its contribution to the agrarian character and quality of Mid Devon".

From a number of viewing points, in particular from land to the north of the site, the lagoon appears as a self-evidently man made intrusion into a sparsely developed landscape, standing out from the natural contours. Given the large size of the earthworks, (50 m by 35 m), it appears as a stark feature in the landscape. Any planting to the earth banks would highlight the man-made shape of the lagoon, accentuating its visual impact in this attractive landscape.

From the roadside the lagoon is visually restricted by a Devon bank, although the new solid gate detail appears alien within the landscape. There are no public footpaths or bridleways in the immediate locality that would afford a public view of the lagoon.

In summary whilst the proposed development has an additional visual impact on the landscape and general character of the area, it is not considered sufficiently harmful to warrant refusal of the application, given that it sits within a non-designated landscape. It is therefore not considered to be contrary to Policy DM2 and COR2.

4. Loss of Grade 2 agricultural land

The site comprises Grade 2 agricultural land. Paragraph 112 of the NPPF requires that local planning authorities should take into account the economic and other benefits of the best and most versatile agricultural land.

Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality.

The Local Planning Authority recognise that applicant in running the holding is required to comply with Nitrogen Vulnerable Zone [NVZ] legislation; however, no information has been submitted about the extent of the holding beyond that the lagoon sits in (a field of some 2 hectares). It is unclear whether other areas of the farm are classified to be a lower grade of agricultural land. Such a factor should be taken into account in any genuine assessment of alternatives. No evidence has been submitted to suggest this is the only siting across the holding area to accommodate a lagoon in order to comply with the NVZ requirements legislation. In the absence of such information and an assessment of alternative locations, the Local Planning Authority cannot be satisfied that the application scheme is the only realistic alternative.

5. Other matters raised

Interested parties have raised concern about the structural integrity of the lagoon and risk of leakage to ground water and nearby springs. Although verbally the applicant has suggested that he did undertake some initial survey work regards the ground conditions at the site prior to carrying out the development, no evidence to demonstrate the findings has been submitted to support the application. Furthermore it is evident from the walls of the lagoon that it is not a lined pit. However any infiltration into the local water system and/or a nearby watercourse would be subject to separate regulation by the Environment Agency, should infiltration occur. In addition if the application is approved the applicant will need to ensure that the Lagoon is compliant with SSAFO regulations - in consultation with the Environment Agency.

Indirectly connected to the point above, is the fact that the site is located within the impact risk zone of the Nymet Barton Marsh SSSI. Nymet Barton Marsh is an extensive and largely intact wetland of a type that is nationally scarce and of which there is only one other undisturbed example in Devon. As a result of the size and type of development, and it's location in relation to the SSSI consultation with Natural England has been undertaken. As confirmed in their consultation response based on an assessment of the detail submitted, Natural England considers that the proposed development will not damage or destroy the interest features for which the site has been notified and has no objection.

6. Planning Balance, Conclusion and the Way Forward

It is recognised that the lagoon could improve the efficiency of the farm business and foster its development, although no evidence has been submitted that it is the best location for the development in terms of it's siting across the holding. It is also recognised that it results in the loss of Grade 2 agricultural land, judged to be of the "Best and Most Versatile" characteristics, and that it is unclear whether other areas of the farm are classified to be a lower grade of agricultural land. Such a factor should be taken into account in any genuine assessment of alternatives. There is nothing before the Council to suggest this is the only siting and design that could comply with the Nitrogen Vulnerable Zone Legislation. In the absence of such information and an assessment of alternative locations, the Council cannot be satisfied that the application scheme is the only realistic alternative.

The Council have assessed the impact of the development as it has been constructed and have concluded that it would adversely affect the living conditions of neighbouring occupiers for the reasons as set out above, and whether the development could be made acceptable by the use of appropriate conditions. In this instance due to the close proximity to residential properties, the Local Planning Authority do not consider that this matter could be adequately controlled by imposing a condition. In the location that the development has been undertaken the evidence points to an inherent conflict with the need to avoid harm to living conditions. As such the proposal cannot be regarded as a sustainable form of development.

If the recommendation to refuse is supported by members, officers would seek to try and agree an alternative and more suitable location on the Brocks farm holding to relocate the slurry lagoon. In the event that the applicant will not enter into discussions voluntarily, it is recommended that an Enforcement Notice is served requiring the applicant to cease using the slurry lagoon, discharge the dirty water and fill in/reinstate the land to its former state and condition. A three month compliance period from when the notice takes effect is considered a reasonable timeframe should members wish to pursue enforcement action.

REASON FOR REFUSAL

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

Application No. 18/00088/FULL

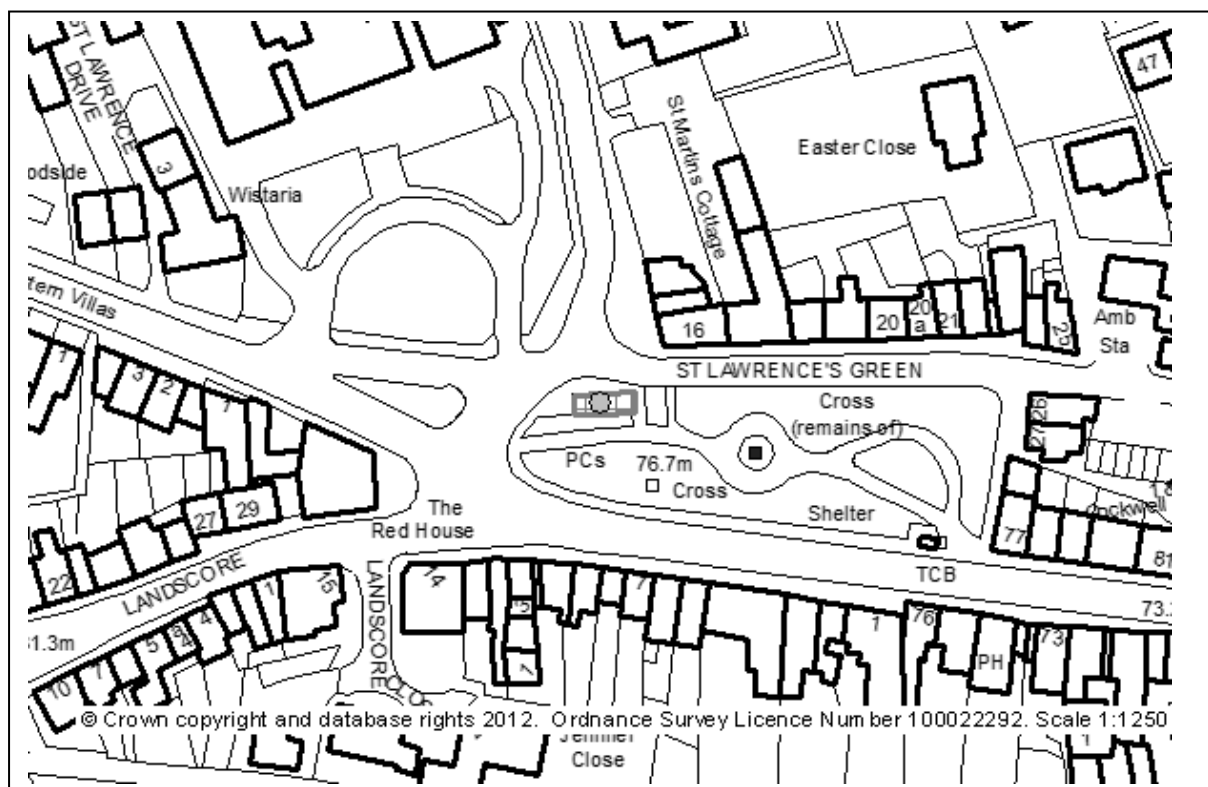
Grid Ref: 282711 : 100413

Applicant: Mr A Gray, M C Kelly Ltd

Location: Public Conveniences
St Lawrence Green
Crediton
Devon

Proposal: Conversion of a public toilet to a food outlet/kiosk, including retention of one toilet cubicle for use by the public

Date Valid: 7th February 2018



APPLICATION NO: 18/00088/FULL

RECOMMENDATION

Grant permission subject to conditions

PROPOSED DEVELOPMENT

The application proposes the conversion of a public toilet building to a food outlet/kiosk within use class A5 (hot food takeaway). The proposal includes the retention of one toilet cubicle for public use. The site lies outside both the town centre and primary shopping frontage boundaries. It is within the settlement limits.

The public conveniences are situated on St Lawrence Green which is located to the west of Crediton's central area close to the junction of High Street, Western Road and St Martins Lane. The site is within the Crediton Conservation Area and is disused at present. There are a variety of commercial and residential properties within the locality in addition to the Queen Elizabeth community college campus.

In order to facilitate the change of use, reconfiguration and adaption of the internal space in the building it will be required to provide counter tops and a walk in fridge. External alterations to the east elevation of the building will be required to form two serving hatches and provide for a small outside counter which will be secured by a metal roller shutter. A rubbish bin for customers will also be provided on the side of the building.

APPLICANT'S SUPPORTING INFORMATION:

Application form; site location, floor plan and elevation plans

RELEVANT PLANNING HISTORY:

None

DEVELOPMENT PLAN POLICIES

Mid Devon Core Strategy (Local Plan 1) COR1, COR6, COR15

Mid Devon Local Plan Part 3 (Development Management Policies) DM1, DM2, DM17, DM25, DM27

CONSULTATIONS

CREDITON TOWN COUNCIL: 21st February 2018- No Objections

Devon County Council Highway Department: 27th February 2018 - Recommend that the application is refused based on the following observation and grounds.

Observations:

The proposed development is located on the junctions of St Martins lane, St Lawrence green, Western road, and the High street. The application does not have any parking associated with the site and the road adjacent is subject to traffic regulation orders and parking is at a premium. The site is in close proximity to the secondary school and while there is some pavement area adjacent to the footway this is limited. The location of the site

may give rise to vehicles abusing the parking restrictions on the junctions with the subsequent increase in risk to all road users.

The proximity of the kiosk close to the school, where a high proportion of the kiosks patronage is envisaged, gives cause for concern over the likely overspill into the carriageway at peak hour traffic times coinciding with school pick up and drop off and the high proportion of pedestrian movements associated with these times. These will give rise to increase in conflict and risk to all users. Therefore the Highway Authority would recommend refusal of the application for the following reasons.

1. The proposed pedestrian access is likely to encourage vehicles to park on the highway, with consequent risk of additional danger to all users of the road contrary to paragraph 32 of the National Planning Policy Framework
2. The proposed development is likely to generate an increase in pedestrian traffic on a highway lacking adequate footways with consequent additional danger to all users of the road contrary to paragraph 32 of the National Planning Policy Framework.
3. The proposed development would be likely to increase the conflict of traffic and Pedestrians movements close to a junction resulting in additional danger and inconvenience to all users of the road contrary to paragraph 32 of the National Planning Policy Framework.

(Officer comment: Following these comments the case officer has held further discussions with the applicant to seek to resolve the concerns as expressed above – refer to section below)

ENVIRONMENTAL HEALTH: 22nd February 2018 – Comments as follows

Contaminated Land - No objection

Air Quality - No objection

Environmental Health - No objection

Drainage - No objection

Noise and other nuisances - No objection

Housing Standards - No comment

Licensing - This may require a premises licence. Please advise to contact the Licensing Team.

ENVIRONMENT AGENCY- 22nd February 2018 Operation development less than 1ha.
Flood zone 1 - No consultation required.

REPRESENTATIONS

Two public representation have been received which object to the proposal on the following grounds:-

1. Noise nuisance and smell,
2. Potential for litter and vermin
3. Traffic problems including parking
4. Highway safety issues
5. Impact on the conservation area of St Lawrence Green
6. Impact on the vitality of nearby retailers
7. The proposal will undermine healthy eating initiatives

The grounds for objection listed above are considered within the assessment section of this report, as set out below.

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The main issues in the determination of this application are:

Policy Appraisal.

Policy COR15 states that Crediton will continue to develop as a small market town through amongst other things, enhanced retail provisions. Policy COR6 seeks to protect and enhance the vitality and viability of town centres by focusing retail development towards town centres. New retail provisions will be permitted outside of town centres where there is a need and where they meet the sequential test set out in National Policy. Current national policy is reflective of the provisions of Policy DM17 of the Mid Devon Local Plan Part 3. This policy seeks to encourage the development of main town centre uses towards town centres. Where no suitable sites are available other locations will be considered firstly in edge of town centre areas and finally outside of town centres. In edge of centre or out of town locations proposals must be well related to the town centre and accessible.

Policy DM25 seeks to protect community facilities and includes provisions for the redevelopment of existing community facilities that enable them to be modernised and continue to be retained for the benefit of the community.

Policy DM27 relates to development affecting heritage assets including conservation areas. Development including changes of use that may affect the setting of heritage assets should consider their significance and opportunities to enhance them.

Policy DM1 and DM2 are concerned with the promotion of sustainable development and high quality design. Policy DM2 seeks to encourage development which contributes positively to local character and does not have an unacceptably adverse effect on privacy and amenity.

Impact on town centre (Policy DM17).

The proposal is located outside of the main town centre in an edge of centre location that is both accessible and well related to the main town centre. The proposal relates to 40sqm of floor space and therefore is significantly below the 500sqm threshold at which a retail impact assessment is required.

Although existing premises are available within the main town centre, the applicant has identified the building as being suitable as only a modest amount of floor space is required in operational terms to operate the kiosk, with other available units unsuitable in their scale.

Having regard to the specific and modest operational requirements, on balance the proposal is unlikely to result in harm to the vitality and/or viability of the main town centre and considered to comply with the requirements of policy DM17. Furthermore the associated benefits of bringing back into use a disused building within the Conservation Area and of reopening one privately maintained toilet cubicle for use by the public also needs to be considered as part of the planning balance in determining how the application scheme will affect the town centre.

Loss / Retention of community facilities (Policy DM25).

The current use of the site is as a public convenience albeit at the time of the application the facility is closed. The application proposes to reopen one toilet cubicle for use as a public

amenity. This is considered to be a public benefit that weighs in favour of the proposed development.

Amenity Impacts (Policy DM2).

The application site is located within an area of public open space. The immediate surroundings contain a mixture of uses including some residential properties, however, the building is considered to be sufficiently remote from residential properties so as not to result in adverse impacts associated with operational noise and smells arising from the development. Furthermore, Environmental Health does not object to the proposal on noise and other nuisance grounds.

Regarding hours of use, it is proposed to open the kiosk and public toilet daily. The operation of the kiosk and/ or public toilet during the late evening could have the potential to encourage antisocial behaviour, creating a place for people to congregate, talk and eat their food. The proposed hours of use for both the kiosk and toilet will be limited to 20.00 hours Monday to Saturday and 18.00 hours on Sunday. These opening hours will be controlled with an appropriately worded planning condition.

Regarding litter and pest control, the applicant has agreed to provide a litter bin at the kiosk and will operate a litter picking schedule within the immediate locality to assist with litter control. Furthermore the kiosk operator will enter in to a waste management contract therefore removing the requirement to store waste at site. These measures are considered sufficient to deter both the spread of litter and the risk of vermin.

Overall, having regard to the controls proposed the conversion of the public toilet to a hot food kiosk is not considered to have an unacceptably adverse effect on residential amenity.

Conservation Area Impact (Policy DM27).

The application will bring back into use a disused building within the conservation area. The external alterations proposed to convert the public conveniences are minimal and will preserve the character or appearance of the conservation area. The application does not include details of signage, if signage is required this will be the subject of a separate application. The Conservation Officer has not raised any objection to the proposal.

Overall the design of the development and the impact of the use on the character, appearance and setting of the Conservation Area are considered to be acceptable having regard to relevant local planning policy.

Highway Safety Impacts (Policy COR9).

The proposed development is located at the junction of St Martins Lane, St Lawrence Green, Western Road, and the High Street. The application does not have any parking associated with the site and the road adjacent is subject to controls regarding the availability of on street parking opportunities. The site is in close proximity to the secondary school and while there is some pavement area adjacent to the footway this is limited. Having regard to this officers in the Highway Authority have objected to the proposal on the grounds that the use would result in increased vehicle and pedestrian conflict and result in additional danger and inconvenience to road users.

In response to these concerns it is observed that the pedestrian route from the college campus to the application site is already trafficked in this way as students make their way to and from Crediton Town Centre. The introduction of the kiosk will not intrinsically alter the pattern of use or change traffic flows, and whilst it is accepted that it will encourage people to

stop in this location the reorientation of the serving hatch could resolve this concern. A further update on this matter will be circulated to members in advance of the committee meeting.

Regarding concerns relating to vehicles parking on the highway and the consequent risk of additional danger this poses, having regard to the nature and scale of the development it is considered that the majority of traffic is likely to be via pedestrian footfall associated with passing trade. It is unlikely that the kiosk would be a specific destination for customers travelling by car. It is notable that there are parking spaces available on St Lawrence Green adjoining the park and whilst these would not be specifically dedicated to the application site, they would provide an opportunity when available to safely park in close proximity to the application site.

Therefore, on balance, the risk of uncontrolled parking on the highway is considered to be low and overall the risk to highway safety associated with the development is not considered to be sufficiently adverse so as to warrant refusal of the planning application on these grounds alone.

Other considerations.

Concern has been expressed that the proposed takeaway would be close to Queen Elizabeth community college campus and that it could encourage pupils and adults alike to eat convenience food. It is accepted that this could be the case and that to a degree the addition of a hot food kiosk in this location could undermine initiatives which actively promote healthy eating. Planning practice guidance states that local planning authorities should ensure that health and wellbeing are considered in local and neighbourhood plans and in planning decision making. It is a material planning consideration. Nevertheless, in the absence of any development plan policy or supplementary planning guidance which specifically seek to restrict the number of takeaways within any defined area and/or their proximity to schools the local planning authority cannot justify refusal of planning permission on these grounds.

Conclusion and planning balance.

In summary the development as proposed is on balance considered acceptable in terms of its impacts as considered and assessed above, and therefore it is recommended that planning permission is granted subject to the following conditions.

CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice
3. The use hereby permitted shall not take place other than between the following hours: 09:00 and 20.00 Mondays to Saturdays; and 10.00 to 18.00 Sundays.
4. Prior to the first operation of the Kiosk the litter bin shown on the approved plans reference 170804 G6 shall be provided and thereafter retained. The litter bin shall be emptied daily.

5. Prior to the first operation of the Kiosk a litter management and collection method statement covering a radius of 25 metres from the Kiosk shall be submitted to and agreed in writing by the Local Planning Authority. The agreed methodology should then be adhered to at all times during the operational hours of the Kiosk.
6. No refuse or food waste shall be stored outside the Kiosk overnight.
7. Prior to their installation, the location, design and colour of the roller shutters required to enclose the serving hatches shall be submitted to and approved in writing by the Local Planning Authority. The shutters shall then be carried out in accordance with approved details and thereafter so retained.
8. Prior to the first operation of the Kiosk, the public toilet as shown on the approved plan 170804 G6 shall be provided and shall be made available for use by members of the public during the Kiosk operation hours. The public toilet should thereafter be maintained.

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. To protect residential amenity in accordance with Policy DM2 of the Mid Devon Local Plan part 3 (Development Management Policies).
4. To protect residential amenity and the quality of the environment locally in accordance with Policies DM1 and DM2 of the Mid Devon Local Plan Part 3 (Development Management Policies).
5. To protect residential amenity and the quality of the environment locally in accordance with Policies DM1 and DM2 of the Mid Devon Local Plan Part 3 (Development Management Policies).
6. To protect residential amenity and the quality of the environment locally in accordance with Policies DM1 and DM2 of the Mid Devon Local Plan Part 3 (Development Management Policies).
7. To ensure the use of materials and detailing appropriate to the development. In order to safeguard the character and appearance of the conservation area and in accordance with Policy D27 of the Mid Devon Local Plan Part 3 (Development Management Policies).
8. To promote sustainable development that brings within it community benefits as advocated by the National Planning Policy Framework.

REASON FOR APPROVAL/GRANT OF PERMISSION

In summary the development proposed is on balance considered acceptable and supportable in policy terms. It is not considered that the development would adversely affect the vitality and viability of Crediton Town Centre, result in harm to the character or appearance of the Crediton Conservation Area or highway safety. Sufficient controls can be put in place to limit the risk of antisocial behaviour associated with the use and other

concerns such as noise and litter and as such impacts on residential amenity are not considered to be significantly adverse. Furthermore the proposal would result in a public benefit it that one toilet cubicle will be made available for public use during the Kiosk opening hours and a currently unused building would be brought back into use. The proposal is therefore considered to be in accordance with Mid Devon Core Strategy (Local Plan 1) Policies COR1, COR6 and COR15 and Mid Devon Local Plan Part 3 (Development Management Policies) DM1, DM2, DM17, DM25 and DM27.

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. 18/00302/FULL

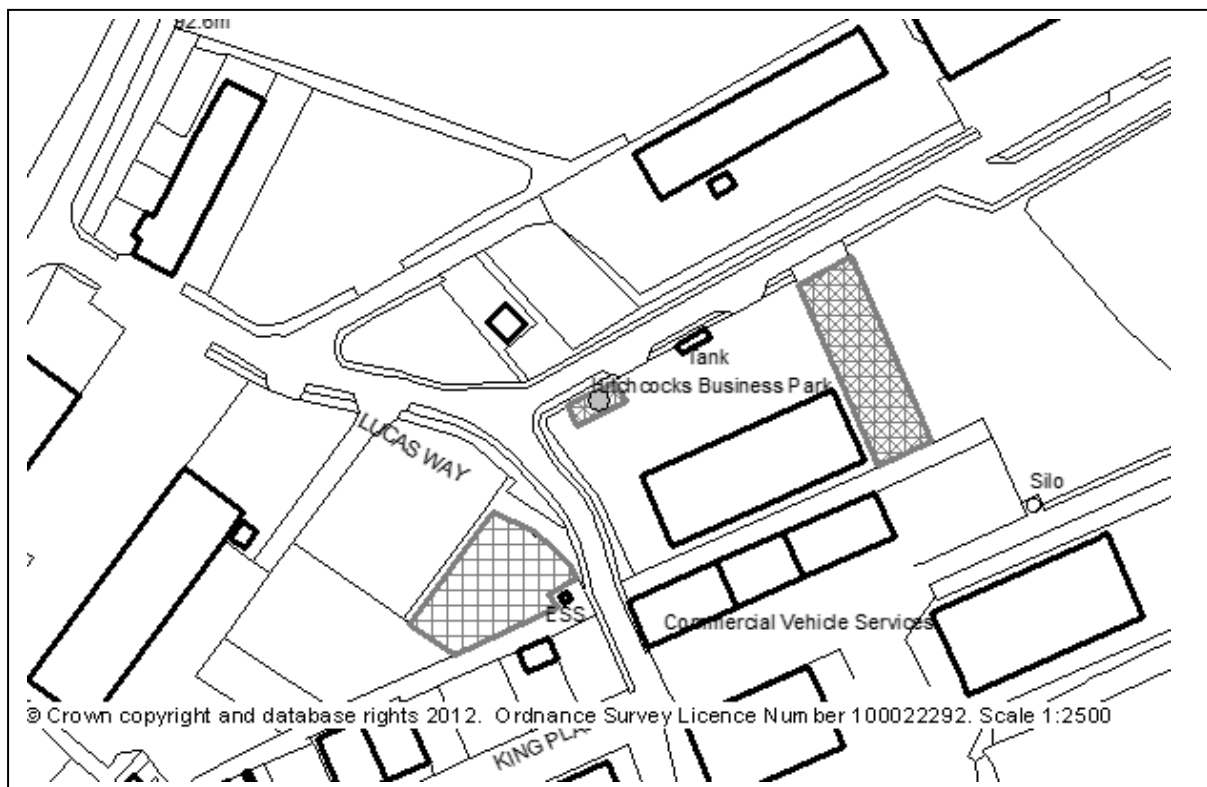
Grid Ref: 305081 : 112318

Applicant: Mr R Persey, Maria Estates Ltd

Location: Mid Devon District Council
Unit 3
Carlu Close
Hitchcocks Business Park

Proposal: Change of use from car park to storage (Class B8) and installation of weighbridge and control room at Carlu Close and change of use of land to car park on land adj Lucas Yard

Date Valid: 26th February 2018



APPLICATION NO: 18/00302/FULL

RECOMMENDATION

Grant permission subject to conditions

PROPOSED DEVELOPMENT

The proposal has three elements:

1. The change of use of land from car parking serving the adjacent Mid Devon District Council Waste and Recycling Centre, to use for B8 (wholesale and distribution) storage for Mid Devon District Council Grounds Maintenance Depot, with associated operational development;
2. The development of a weighbridge and control room within the yard area to the Mid Devon District Council Waste and Recycling Centre; and
3. The change of use and provision of hard surface for a car park to serve Mid Devon District Council Waste & Recycling Centre, and Grounds Maintenance Depot.

Mid Devon District Council's Grounds Maintenance team is currently based at the Park Nursery Depot in Tiverton. The service operates in combination with the Council's Street Scene service that is based at the Carlu Close location. Following a review of the welfare provision, asset security, asset condition and the management arrangements of the Park Nursery Depot, the Council proposes to relocate the Grounds Maintenance depot to Carlu Close.

The yard area will be used for the storage of plant, equipment and other items used by the Grounds Maintenance team, together with parking of operational vehicles and plant. At the southern end of the yard, a concrete base will be laid to accommodate storage of 4 containers (not permanent fixtures) that will be used to house Grounds Maintenance plant and equipment.

The proposed weighbridge is to be flush with the yard surface. The associated control building is some 2.4m wide x 1.8m deep x 2.55m high to ridge. It will be timber boarded with a felt roof.

APPLICANT'S SUPPORTING INFORMATION

Site location plan, block plan, proposed carpark plan, proposed control booth plan, proposed weighbridge plan, covering letter.

RELEVANT PLANNING HISTORY

14/01310/MFUL - PERMIT date 12th May 2015

Change of use of agricultural buildings for B1/B2/B8 commercial use, the demolition of agricultural buildings and the erection of replacement B1/B2/B8 commercial buildings, the use of The Forge and Unit 11 for B1/B2 and B8 commercial use, the provision of associated landscaping, yard areas and infrastructure.

17/00097/DCC – GRANTED date 28th March 2017

DCC/3939/2016 - County Matter application for change of use of existing building from commercial use to a waste transfer station for municipal waste.

17/00135/FULL - PENDING

Variation of conditions (2) and (13) of planning permission 14/01310/MFUL to allow substitute plans, change foul drainage disposal to private treatment plants instead of mains drainage and to revise internal road and footpath layout .

17/01362/DCC - GRANTED date 20th September 2017

DCC/4016/2017 County Matter Planning Application for the Installation of weighbridge and erection of weighbridge control room, water storage tank and pump room.

DEVELOPMENT PLAN POLICIES**Mid Devon Core Strategy (Local Plan 1)**
COR18**Mid Devon Local Plan Part 3 (Development Management Policies)**

DM2 – High quality design

DM8 – Parking

DM20 – Rural employment development

CONSULTATIONS

Highway Authority: 12th March 2018 - No comments.

Environment Agency: Operation development less than 1ha. Flood zone 1 - No consultation required. See surface water management good practice advice - see standard comment.

Halberton Parish Council: 14th March 2018 - No objections to the planning application and supports the proposals for a dedicated parking area.

Willand Parish Council: 13th March 2018 - Willand Parish Council agreed that as the application involved facilities for MDDC no observations would be made. The previously recorded concerns as to the lack of a footpath or safe cycle way between Willand and the site are reiterated as is the concern that the site is expanding without a coordinated infrastructure to deal with foul and surface water.

REPRESENTATIONS

None received.

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The main issues in the determination of this application are:

1. Principle of development.

Policy COR18 of the Mid Devon Core Strategy (Local Plan part 1) seeks to control development outside defined settlement boundaries but permits appropriately scaled employment development.

Policy DM20 of the Mid Devon Development Management Policies (Local Plan part 3) considers rural employment development, and states that in countryside locations, planning permission will be granted for new build employment development or expansion of existing businesses, provided that the development is of an appropriate use and scale for its location.

The proposed site is considered to be the most appropriate location for the proposed car parking use to serve the building and is to improve facilities to serve an existing employment

building.

2. Access and parking.

The proposed development will be served by the existing main site access and internal road infrastructure. The proposed materials include compacted stone and concrete bases for container storage within the grounds maintenance depot. The Highway Authority has no comments to make. The proposal will increase parking provision on the site and is considered to be in accordance with policies DM2 and DM8 of the Mid Devon Local Plan Development Management Policies (Local Plan part 3).

The application seeks permission for the change of use of land from the existing car park serving the adjacent Mid Devon District Council Waste & Recycling Centre, to B8 storage use for Mid Devon District Council Grounds Maintenance Depot, with associated operational development.

A new car parking will be constructed where a total of 90 car parking spaces are proposed. The car park will not be fenced, and will be finished in hardcore, with surface water discharging naturally to ground.

3. Traffic movements from the site.

The Grounds Maintenance depot will generate up to 10 vehicle movements daily, comprising vans (under 3.5T), with the majority doing one trip per day to site and returning at the end of the day.

The development will generate a minimal level of trade waste, with one 1100 litre bin collected weekly by Mid Devon District Council's in-house trade waste collection service, based on site.

4. Visual impact.

Planning permission was previously granted by Devon County Council on 20th September 2017 (reference: DCC/4016/2017) for the installation of weighbridge and erection of weighbridge control room, and the erection of a water storage tank and pump room at 3 Carlu Close. For operational reasons, the weighbridge and control room are now proposed to be repositioned to the north western part of the yard area serving the Waste & Recycling operations. The weighbridge will be mounted flush with the yard surface and will have minimal visual or other impact. Alongside the weighbridge it is proposed to construct a control room building measuring 2.4 metres wide by 1.8 metres deep, with height to eaves of 2.1 metres and height to ridge of 2.55 metres. The building will be of timber construction with elevations clad in horizontal timber boarding and a felted roof, with the appearance of a garden shed. The structure will be very modest in scale and in this location will have minimal visual impact.

New gates and a combination of relocating the existing fence and additional fencing will provide a new perimeter to encompass Grounds Maintenance and the Waste & Recycling and the Waste Transfer Station. A new gate will be introduced into the existing western fence boundary to the Waste Transfer Station to provide access to the new car parking area to the west.

5. Drainage.

The proposed relocation of the Grounds Maintenance service to the existing car park at 3 Carlu Close means that a replacement car parking facility will be required to meet the needs of both the Waste & Recycling service, and the Grounds Maintenance depot.

A new car park is therefore to be created within the area across the road to the west from the Waste & Recycling facility, with access from Lucas Way to the east. The car park will not

be fenced, and will be finished in hardcore, with surface water discharging naturally to ground.

There is no foul drainage requirement and surface water will be discharged to existing soakaways and to the drainage system presently serving the Business Park. No additional hard surfaced area will be created and therefore the development should not result in additional surface water run-off.

Due to the difference in ground levels and to maintain separation between the Grounds Maintenance operations and Waste & Recycling operations, the fencing along the western boundary of the proposed Grounds Maintenance yard will be replaced with a low 'Armco' type barrier. This will also be extended to provide protection to the sprinkler water storage tank and pump house from general Grounds Maintenance operational movements in the area.

6. Lighting.

Lighting will be provided, to match the existing lighting on the estate, using LED lamps for low running and maintenance costs. P851 pole mounted LED lighting.

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

The planning application site is located within an established Business Park and the proposed development is complementary to and will be used in association with an existing Waste and Recycling Centre. Development will have no significant adverse impact on interests of relevance to planning, including landscape and visual amenity, highway safety, local residents, the environment and ecology, drainage and flood risk, or otherwise. As such the proposal is considered to comply with Policies COR18 of the Mid Devon Core Strategy (Local Plan Part 1), DM2, DM8 and DM20 of the Mid Devon Local Plan Part 3 (Development Management Policies) and the National Planning Policy Framework.

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

Application No. 17/01323/MOUT

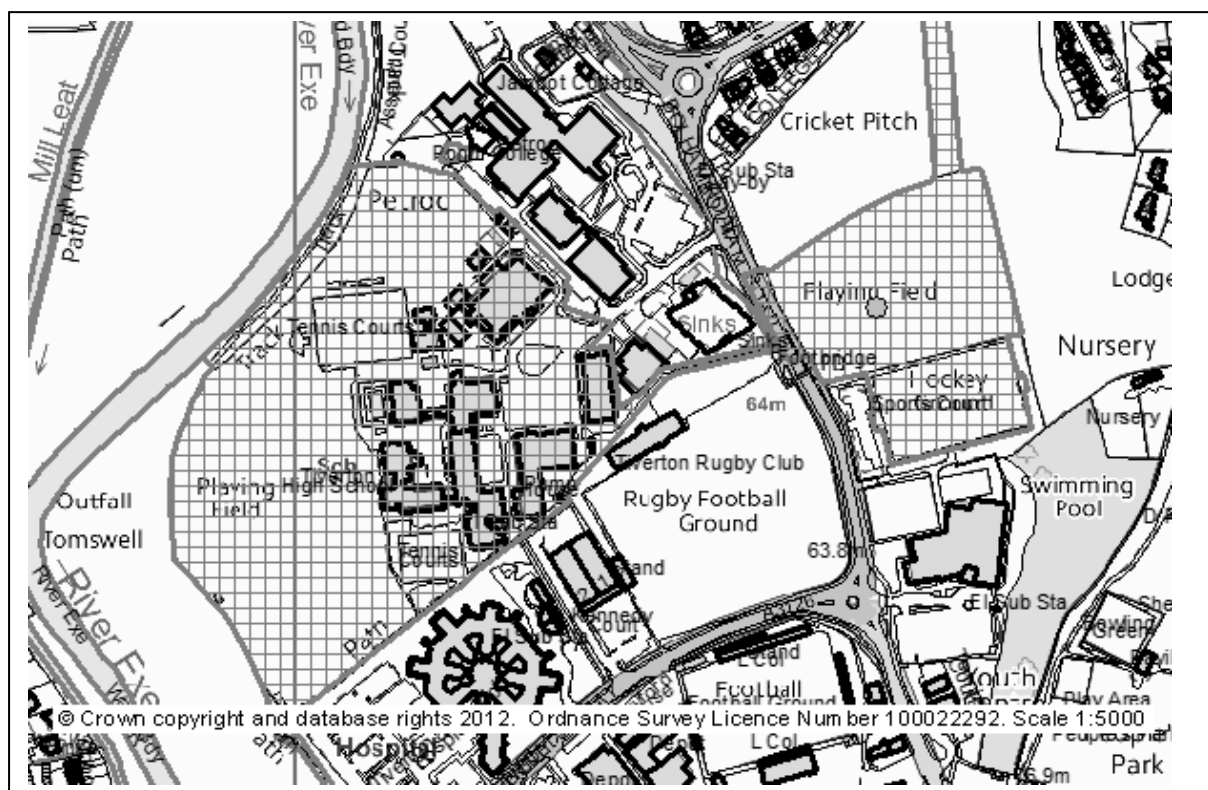
Grid Ref: 295115 : 113443

Applicant: Mr J Sowden

Location: Tiverton High School & Land East of Bolham Road
Bolham Road
Tiverton
Devon

Proposal: Outline for the relocation and expansion of Tiverton High School and the integrated development of Tiverton Community Arts Theatre

Date Valid: 18th August 2017



APPLICATION NO: 17/01323/MOUT

RECOMMENDATION

Recommend to the National Planning Casework Unit that permission be granted, subject to conditions.

(The application is subject to an outstanding objection from Sport England in relation to some of the sports pitches being located in Flood Zone 3. Your officers consider that the benefits of relocating the school buildings out of the flood zone greatly outweigh the harm identified by Sport England in relation to sports provision within the flood zone.

Should the Local Planning Authority be minded to grant planning permission for the proposal, contrary to Sport England's objection, then in accordance with The Town and Country Planning (Consultation) (England) Direction 2009, the application needs to be referred to the National Planning Casework Unit, for a decision as to whether the Secretary of State wishes to call in the application).

PROPOSED DEVELOPMENT

Outline for the relocation and expansion of Tiverton High School and the integrated development of Tiverton Community Arts Theatre.

The proposal is to relocate Tiverton High School from its current site to the west of Bolham Road to a new site east of Bolham Road, increasing its maximum capacity from 1,400 to 1,800 pupil places. It is also proposed to include a building for the Tiverton Community Arts Theatre within the new school complex.

The entire site for the existing school is within Flood Zone 3 (highest risk of flooding) whereas the proposed site for the relocated school is within Flood Zone 1 (outside the flood zone). The proposed site is currently used as sports pitches which will be relocated to the existing school site. Relocated flood defences are proposed for the existing school site in accordance with Environment Agency requirements.

The application is in outline with some matters reserved (layout, scale, appearance, landscaping). Access to the site is to be determined under this application. It is proposed to provide a school drop off area, accessible parking and emergency access to the front of the school site, accessed from Bolham Road. In addition, a new vehicular access with dedicated pedestrian and cycle routes is proposed from Lea Road to the north of the site. This access will be capable of taking coaches.

The existing school buildings to the west of Bolham Road will be removed with the exception of the existing sports hall. This will be supplemented with a new sports hall on a podium linked to a raised causeway and path bridging over to the main school campus and a new raised all weather pitch. The main car park for the school will be expanded and access to the school will be via the new raised causeway and bridge.

Relocation of the school will be across 6 phases on a departmental basis, with performing arts, visual arts and design technology, and the Tiverton Community Arts Theatre forming phase 1. Whilst approval of the design of the school is reserved for consideration under reserved matters, indicative plans and visualisations have been provided which demonstrate a strong street presence onto Bolham Road.

APPLICANT'S SUPPORTING INFORMATION

Design and Access Statement
Campus Relocation Masterplan
Flood Risk Assessment and Drainage Strategy
Stage 1 Road Safety Audit
Transport Assessment
Ground investigation report
Ecological appraisal
Archaeological survey

RELEVANT PLANNING HISTORY

91/01964/FULL - PERMIT date 29th January 1992

DEEMED CONSENT for extension to existing school buildings comprising 3 single storey laboratories and prep.room, and alteration to existing careers office to form store and office

92/00555/FULL - DEMCON date 3rd August 1992

DEEMED CONSENT for the erection of three storey teaching block with link to existing teaching block, erection of single storey music/drama block with link to new teaching block

92/00999/FULL - NOBJ date 28th July 1992

Temporary siting of 3 new double unit mobile classrooms and re-siting of 7 existing single unit mobile classrooms

95/00958/FULL - NOBJ date 2nd August 1995

Construction of flood prevention bank (0.60ha) and regrading of land to provide flood storage capacity (1.05ha)

09/00680/DCC - DCCGNT date 28th May 2009

Regulation 3 application for the provision of 3 permanent modular classroom buildings, link corridors to existing buildings and associated hard landscaping - DEVON COUNTY COUNCIL GRANTED CONDITONAL PLANNING PERMISSION - DATED 6TH JULY 2009.

10/01185/DCC - DCCGNT date 17th September 2010

Regulation 3 application for the erection of an extension to music facility to provide 3 practice rooms; office; store and access lobby - GRANT OF CONDITIONAL PLANNING PERMISSION 17TH SEPTEMBER 2010 (DCC/3099/2010).

13/00749/DCC - DCCGNT date 11th June 2013

Regulation 3 application for flat roof to pitched roof conversion to the Horizon teaching block
DEVON COUNTY COUNCIL GRANTED CONDITIONAL PLANNING PERMISSION ON
THE 8TH JULY 2013

DEVELOPMENT PLAN POLICIES

Mid Devon Core Strategy (Local Plan 1)

COR1 Sustainable Communities
COR9 Access
COR11 Flooding
COR13 Tiverton

Mid Devon Local Plan Part 3 (Development Management Policies)

DM1 Presumption in favour of sustainable development

DM2 High quality design
DM3 Sustainable design
DM4 Waste management
DM8 Parking
DM24 Tourism and leisure development
DM25 Community facilities
DM26 Protection of recreational land and buildings
DM28 Green infrastructure within major development

National Planning Policy Framework

CONSULTATIONS

HIGHWAY AUTHORITY – 26th March 2018 - The Highway Authority would raise no objection to the proposed development, the transport assessment is accepted and drawing numbers HBS-DR-C-(00)-061- P3 and 173091-G-01 rev C should be conditional of any consent and their provision will need to be subject to the appropriate legal agreement under the Highways Act. The covered overhead walkway will need to be licensed under section 177 of the Highways Act and can be included in the legal agreement.

Therefore should consent be granted the following conditions should be imposed:

1. This permission shall relate to the amended drawing No. HBS-DR-C-(00)-061-P3 and 173091-G-01 rev C received by the Local Planning Authority on 26 February 2018

Reason: For the avoidance of doubt

2. No part of the development hereby approved shall be brought into its intended use until the access, parking facilities commercial vehicle loading/unloading area, visibility splays, turning area, parking space, access drainage have been provided and maintained in accordance with details that shall have been submitted to, and approved in writing by, the Local Planning Authority and retained for that purpose at all times

Reason: To ensure that adequate facilities are available for the traffic attracted to the site

3. In accordance with details that shall previously have been submitted to, and approved by, the Local Planning Authority, provision shall be made within the site for the disposal of surface water so that none drains on to any County Highway

Reason: In the interest of public safety and to prevent damage to the highway

ENVIRONMENT AGENCY - 16th March 2018 - Thank you for consulting us on the addendum to the Flood Risk Assessment dated February 2018, ref. 23-20-17-1-1087/FRA_ADD by HBS, and the Masterplan v.6 Final.

We are satisfied that the main issues regarding flood risk associated with this proposal can now be addressed by means of planning conditions. Our advice in respect of flood risk and our suggested wording for the conditions are provided below.

1. Prior to the submission of the first reserved matters application for the development hereby approved, or other such stage agreed by the LPA, a detailed assessment to determine the feasibility of the flood risk reduction measures proposed in the approved FRA shall be submitted to and agreed in writing by the LPA.

Reason: To determine the feasibility of flood risk reduction measures required by the development.

2. Prior to the submission of the first reserved matters application for the development hereby approved, or other such stage agreed by the LPA, the applicant shall submit a programme including a timetable for implementation, of flood reduction measures for each phase, or combination of phases, as identified in the approved FRA and subsequent detailed assessment. The measures shall be fully implemented in accordance with the approved details to the satisfaction of the LPA.

Reason: To reduce flood risk.

The FRA addendum includes six options for treatment of the existing school site, including the provision of raised all weather pitch, reorienting the line and level of raised defences, and adjusting floodplain levels. It is evident that it is feasible that treatment of the existing school site could help achieve wider benefits, and be considered alongside current aspirations by the Environment Agency to provide defences adjacent to Mountbattern Industrial Estate.

The consideration of which of the options would be most appropriate to implement, or combination of measures, can be provided and determined at the reserved matters stage. It will be essential that the effects of implementing works will be quantified. As such computer modelling will be required to ensure the most effective solution can be delivered. We are therefore pleased this has been acknowledged within the addendum.

LEAD LOCAL FLOOD AUTHORITY - 23rd March 2018 - Recommendation:

Our objection is withdrawn and we have no in-principle objections to the above planning application at this stage, assuming that the following pre-commencement planning conditions are imposed on any approved permission:

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

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

2. No part of the development hereby permitted shall be commenced until the detailed design of the proposed permanent surface water drainage management system has been submitted to, and approved in writing by, the Local Planning Authority, in consultation with Devon County Council as the Lead Local Flood Authority. The design of this permanent surface water drainage management system will be informed by the programme of approved BRE Digest 365 Soakaway Design (2016) percolation tests and in accordance with the principles set out in the Flood Risk Assessment (Ref. 23-20-17-1-1087/FRA_ADD; Rev. A; dated 15th February 2018) and the relevant sections of the Foul and Surface Water Strategy Statement (Ref. 12-20-16-1-1087-SWS; July 2017).

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

3. No part of the development hereby permitted shall be commenced until the full results of a groundwater monitoring programme, undertaken over a period of 12 months, has been submitted to, and approved in writing by, the Local Planning Authority, in consultation with Devon County Council as the Lead Local Flood Authority. This monitoring should be conducted to provide adequate coverage of the site, with particular focus placed on the locations and depths of the proposed infiltration devices.

Reason: To ensure that the use of infiltration devices on the site is an appropriate means of surface water drainage management.

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

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

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

Following my previous consultation response (FRM/MD/01323/2017; dated 3rd November 2017), the applicant has submitted additional information in relation to the surface water drainage aspects of the above planning application, for which I am grateful. It is noted that infiltration testing has not been completed on-site thus far, therefore an attenuation system has been designed as an alternative. Source control components should be considered at the next stage.

It should be noted that option 6 of the proposed Flood Defence Improvement Options, as outlined in Flood Defence Improvement Options (sheet 3 of 3) (drawing No. HBS-DR-C-(00)-064; Rev. P1; dated 13th February 2018), may have an effect on the surface water drainage strategy.

SPORT ENGLAND - 13th March 2018 - In relation to meeting E4 of the Playing Fields Policy:

The playing field or playing fields which would be lost as a result of the proposed development would be replaced by a playing field or playing fields of an equivalent or better quality and of equivalent or greater quantity, in a suitable location and subject to equivalent or better management arrangements, prior to the commencement of development.

Sport England has assessed the proposal against the criteria:

Quantity

The proposal shows a quantum of playing field land at the end of Phase 6 that shows an equivalent or greater quantity. The inclusion of a 3G AGP in Phase 1 will help with the reduction of playing field land until Phase 6.

Quality

We have seen no evidence to suggest that the current playing field land in the Flood Zone are of better 'quality' compared to those outside the Flood Zone. Sport England does not advocate the creation of new playing pitches or playing field land within Flood Zones. We would be also concerned that the playing field areas will become 'storage areas' for flood water in the event of a flood. We also note that in Phase 6, a valve mechanism to enable flood water to drain out of the playing field area. Details to be submitted. Phase 6 may not happen due to funding or Phase 6 may not be delivered for a long time.

We note the agent's suggestion of a detailed sports pitch design of new grass pitch areas prior to the submission of each phase of reserved matters applications.

We support the inclusion of a 3G AGP with rugby shock pad to World Reg 22 standard included in Phase 1 for use by school and wider community. We would support a design solution that will enable this 3G AGP to be operational in the event of a flood and not 'washed away'.

We note that cricket will be as existing in phases 1-5 and no improved facility will happen until Phase 6. As stated above, Phase 6 may not happen due to funding or phase 6 may not be delivered for a decade or so. There is no firm commitment for indoor nets to be provided in the sports hall. Again this Sports Hall won't be provided until Phase 6.

We note that the existing sand AGP was re-carpeted in 2009. It would be wise to review its quality every 2-3 years and at that time make a judgement on the need for future re-carpet. Perhaps some football use will move to the 3G AGP, but there will be arguably better use from the School given improved access.

Management and Maintenance

The management of replacement playing field land including playing pitches will be a huge challenge given the location is Flood Zone 3. This will be in terms of manpower and budgets.

We would wish to see increased community access to the sports facilities. The Football Foundation raise concerns on the impact of existing users of the playing fields.

Prior to commencement

The masterplan is a long term project currently managed in six phases. Funding is limited to the early phases at the time of this consultation. There is no guarantee of an end date to Phase 6. Sport England is encouraged by the Phase 1 inclusion of a 3G AGP.

Additionally, the Football Foundation (FF) on behalf of the Football Association (FA) advises that it is not evident that our points raised previously have been addressed, so therefore our comments below still stand. In summary they would require further clarification on the points above to make further comments, but as a priority they would want confirmation on the following:

1. Inclusion of the full sized 3G all-weather pitch with floodlighting
2. Impact of transferring the pitches onto a flood zone
3. Clarification on exactly when the pitches will be reinstated and what the mitigation plan is to accommodate Moors Youth FC who will be displaced from the current pitches over this phased construction period

Conclusion

In summary, from the information provided and reviewed in this response, we are not fully satisfied that the proposal meets one of the exceptions of the above policy E4.

Given the replacement playing field land is in Flood Zone 3, our response is an **OBJECTION**.

Should the local planning authority be minded to grant planning permission for the proposal, contrary to Sport England's objection then in accordance with The Town and Country Planning (Consultation) (England) Direction 2009, the application should be referred to the Secretary of State, via the Planning Casework Unit.

SPORT ENGLAND – 28th March 2018 –

Sport England, the previous case officer, previous architect and Environment Agency met a few years back and the challenge was always building a school on playing field land and the replacement playing field land being in Flood Zone 3.

Are Phase 6 funds guaranteed? The lead architect has stated that whilst Phase 6 is still the end goal, initial funding is only for the early phases. It would be good to see a timeline of phases 1-6.

We are pleased to see the proposed 3G AGP in phase 1 which has funding.

Cricket – The ECB have confirmed now that the club has moved.

Community use by groups – This is great to see, and a high number of groups use the School, more than I could identify. To protect them, we would encourage a planning condition.

I would agree that reporting a SE objection if you are minded to approve, referring to the Planning Casework Unit is one way to 'move' this application on. We remain concerned that grass pitches and a 3G AGP could be 'washed away' in the event of a flood.

Suggested planning conditions should seek:

1. The 3G AGP in phase 1. To be built to meeting performance quality standards/FIFA Quality for Football, to World Reg 22 for Rugby. This includes lighting, fencing, line marking, type of surface and shock pad, maintenance etc
2. Community use of the 3G and the grass pitches and the sports hall and other sports facilities (whole site in essence). Formal community use agreement – template on our website.
3. Natural turf pitches to be created to Natural Turf for Sport / performance quality standards and future maintenance regimes devised and implemented.

HISTORIC ENVIRONMENT SERVICE - 5th September 2017 - Assessment of the results of the geophysical survey undertaken of the site and submitted in support of this planning application does not suggest that the proposed development will have any impact upon any known heritage assets with archaeological interest.

NATURAL ENGLAND - 11th September 2017 - No comments

DEVON, CORNWALL & DORSET POLICE - 8th September 2017 - It is appreciated that this is at the outline stage, but early consultation with the police frequently prevents delays further down the process when crime and disorder issues present a problem with the layout of a submitted design.

Please find the following initial advice and recommendations from a designing out crime, antisocial behaviour and conflict perspective:

A clearly defined and secure boundary of the school is a pre requisite for a secure site. Consideration should be given to the installation of anti-ram bollards to the front of the proposed theatre and school reception.

Please refer to part 2 of SBD New Schools 2014 for advice and guidance on relevant physical security specifications for doors and windows etc. Roof lights are advised to be an independently security tested to an appropriate standard such as LPS 1175 or STS 202.

Consideration should be given to the installation of an appropriate monitored CCTV and intruder alarm system, with compatible lighting. The proposed main staff and public car park are located across Bolham Road, eventually away from the view of the new school buildings. It is recommended that the car park, including any identified pedestrian routes to and from be included in any proposed lighting and CCTV system.

Recessed areas should be minimised thus reducing the number of hiding places which could be used for bullying, ASB, crime or inappropriate loitering. Blank elevations should be avoided where ever possible as these encourage loitering, reduce surveillance opportunities and can become prime areas for graffiti and damage. Flat or low pitched roofs (if applicable) should be made inaccessible.

ENVIRONMENTAL HEALTH - 12th September 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

Licensing - I have no objection to this proposal. The Tiverton Community Arts Theatre premises licence would need to be surrendered when it is no longer required and a new application for a premises licence submitted for the new premises. If there are alterations to kitchens and food provision, please contact Environmental Health to ensure registration requirements are met. Advice on requirements such as layout and structural provision can also be given.

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

SOUTH WEST WATER - 14th September 2017

There is a public sewer in the vicinity of the development. Should the development encroach on the 3 metre easement, the sewer will need to be diverted.

SWW recommends a planning condition that foul drainage (and no other drainage) shall be connected to the public sewer. The proposed method of discharge of surface water into the ground (infiltration) is acceptable.

TIVERTON TOWN COUNCIL - Support

REPRESENTATIONS

Two representations received

1 objection:

No objection to the proposed expansion of the High School. Objection relates to road linking the high school to Lea Road. The exit is directly opposite our property and a short distance from the entrance to the Alsa Brook Meadow and Whitstone Drive. Due to the close proximity of the road exit the estate will be used as a collection point for parents. This will create increased noise and disturbance due to the increase in vehicles. At peak school times Lea Road is congested with queuing traffic, with buses entering and exiting the proposed road this will exacerbate the situation. When the road is not congested buses turning out of the road will cause a hazard to vehicles travelling down Lea Road towards the roundabout. Vehicles often travel at high speed along this road so unless speed precautions are inserted this is a cause for concern.

1 support:

Theatres Trust support for the location of the Tiverton Community Arts Theatre within the new school complex.

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The main issues in the determination of this application are:

1. Principle of development and phasing
2. Flooding and drainage
3. Access and highways issues
4. Sports provision
5. Layout and design
6. Other: heritage (archaeology), ecology and green infrastructure
7. Planning balance

1. Principle of development and phasing.

The National Planning Policy Framework (NPPF) contains a presumption in favour of sustainable development and supports development that encourages the use of sustainable transport modes and high quality development that contributes positively towards making places better for people. The NPPF requires a positive approach meeting educational needs and requires Local Planning Authorities to give great weight to the need to create, expand or alter schools.

It also states that sports and recreational land should not be built on unless:

- As assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements, or
- The loss resulting from the proposed development would be replaced with equivalent or better provision in terms of quantity and quality in a suitable location, or
- The development is for alternative sports and recreational provision, the needs for which clearly outweigh the loss.

Policy COR1 of the Mid Devon Core Strategy seeks sustainable development that brings positive benefits, supports the needs of communities and provides vibrant, safe, healthy and inclusive places, including managing flood risk and reducing the potential risks of climate change. It seeks to provide access to education and provide a mix of compatible uses, services and community facilities. Development should be accessible and reduce the need to travel by car.

Policy COR9 seeks to co-ordinate development and transport planning to improve accessibility and reduce the need to travel by car. It also seeks to enhance road safety through the management of car parking and traffic, and create attractive environments accessible to all.

Policy COR13 sees Tiverton continuing to develop as a medium sized market town, improving access to housing, employment and services for its population, and reduce the risk of flooding.

Policy DM1 of the Local Plan 3 Development Management Policies seeks a proactive approach in favour of sustainable development to improve the economic, social and environmental conditions in the area.

Policy DM24 supports new leisure developments within defined settlements and policy DM25 permits new community facilities where they are easily accessible by the local community. Proposals for redevelopment of existing community facilities that enables them to modernise, remain viable and continue to be retained for the benefit of the community will be supported.

The main aim of the proposal is to move Tiverton High School out of the flood zone. Supplemental to this is to provide Tiverton with a new and upgraded community arts theatre that would be shared between the school and the community.

The development is intended to be phased as follows. (Note that reference to house base refers to subdivision of students into different groups or houses, not dwellings).

Phase 1A (Performing Arts)

Atrium with links to Tiverton Community Arts Theatre (TCAT) front of house and backstage, but no house base

Phase 1B (Visual Arts + Design Technology)

1 house base

Phase 2 (English, SEN + Computer Science)

1 house base

Phase 3 (THS Core Resources - hall, library, staff, dining, catering etc)

No house base

Phase 4 (Science and Maths)

2 house base

Phase 5 (Languages + RPS and Humanities)

2 house base

Phase 6 (PE)

No house base

TCAT - phase timing to be determined by Arts funding

Theatre front of house and back stage both linked to THS Performing Arts and to THS dining facilities and courtyard to enable a wide range of conference and function potentials.

As the school buildings are moved onto the new site and the existing buildings demolished, sports facilities will be relocated onto the existing school site. Phasing plans have been drawn up which identifies the phasing of the school move and sports provision (Appendix 1).

The timing of provision of the various phases will be dependent on funding but it is hoped that the relocation can be done in one operation. A full sized 3G artificial pitch that is outside the flood zone will be included within phase 1.

The new facility will provide expanded and modern accommodation for the school, well served by public transport, walking and cycling opportunities, and will improve traffic management around the school area. The proposal will reduce flood risk to the school buildings, and to the wider area, as well as provide community facilities in the form of the Tiverton Community Arts Theatre building. Overall, once the development is completed, the loss of sports pitches resulting from the proposed

development would be replaced with equivalent or better provision in terms of quantity and quality in a suitable location, in accordance with the criteria in the NPPF.

The proposal is considered to comply with policies COR1, COR9 and COR13 of the Mid Devon Core Strategy (LP1) and DM24 of the LP3 DMP in respect of the principle of the development in this location.

2. Flooding and drainage.

Policy COR1 of Mid Devon Core Strategy seeks sustainable development, including managing flood risk and reducing the potential effects of climate change.

Policy COR11 of the Mid Devon Core Strategy seeks to manage flood risk to reduce the risk of flooding to life and property and guide development to locations with the lowest flood risk. It also states that appropriate development should only be located in areas of higher flood risk where the benefits outweigh the risk of flooding.

Policy DM2 of the Local Plan 3 Development Management Policies requires sustainable design that takes into account the impact of climate change.

Tiverton High School is currently located to the west of Bolham Road within Flood Zone 3 (highest risk of flooding). This application proposes to relocate the school teaching buildings to the east of Bolham Road to an area outside the flood zone. This approach is supported by the Environment Agency and has obvious safety advantages over the existing location, particularly when future climate change could increase the risk of flooding of the school in its existing location.

It is also proposed to modify the flood defences along the boundary of the existing school site and the River Exe as part of ongoing work being carried out by the Environment Agency to improve flood risk in this part of Tiverton, including to the adjacent hospital site. Several options have been proposed in the Flood Risk Assessment. Whilst these options may result in two of the existing grass sports pitches being vulnerable to flooding in extreme flood events, these pitches are vulnerable to ground water inundation and it may be possible to improve drainage to provide betterment for most of the year.

Following extensive liaison between the parties, the Environment Agency is satisfied that the main issues regarding flood risk associated with this proposal can now be addressed by means of planning conditions.

The Flood Risk Assessment (FRA) addendum includes six options for treatment of the existing school site, including the provision of raised all weather pitch, reorienting the line and level of raised defences, and adjusting floodplain levels. It is evident that it is feasible that treatment of the existing school site could help achieve wider benefits.

The consideration of which of the options would be most appropriate to implement, or combination of measures, can be provided and determined at the reserved matters stage.

A surface water drainage strategy has been prepared on the basis of soakaways (infiltration). Following concern from the Lead Local Flood Authority that infiltration testing has not been carried out and the strategy therefore may not work, the applicant has prepared an alternative back-up strategy which is detailed within the FRA Addendum. The alternative strategy proposes that all impermeable areas of the proposed development are drained via gravity to underground cellular storage systems or porous pavements which connect offsite to a watercourse.

The Lead Local Flood Authority is satisfied that there is a workable surface water drainage strategy for the site and has recommended conditions to require approval of details.

Foul drainage is to be connected to the mains sewer.

The proposal is therefore considered to be in accordance with the requirements of policies COR1 and COR11 of the Mid Devon Core Strategy (LP1) and DM2 of the LP3 DMP as regards flood risk and drainage.

3. Access and highways issues.

Policy COR9 of the Mid Devon Core Strategy seeks to improve accessibility of development for the whole community, improve highways safety through traffic management and encourage the use of public transport, walking and cycling.

Policy DM2 of the Local Plan 3 Development Management Policies seeks safe and accessible places that also encourage sustainable modes of travel such as walking and cycling.

Policy DM8 of the Local Plan 3 Development Management Policies sets parking standards for new development, but excludes schools from the standards. The policy requires an appropriate level of parking to be provided, taking into account the type of development, accessibility of the site and availability of public transport.

The car park on the existing school site is being extended by a total of 50 additional spaces to serve the school and the community arts theatre. The car park is to be linked to the school by a new footbridge.

In addition, a new drop off point and a number of accessible parking spaces will be provided to the front of the school on Bolham Road and a new access for deliveries, buses and coaches will be provided from Lea Road. Swept path analysis has been undertaken to demonstrate the new accesses are suitable for large vehicles such as coaches.

Walking, cycling and public transport access to the school is good.

Concern has been raised that the provision of a new access from Lea Road will exacerbate traffic congestion and result in parking problems for surrounding residential areas at school drop off/pick up times.

The Highway Authority has commented that the vehicle entrance on Lea Road may give rise to parking in residential roads during drop off and pick up times, however, the existing car park and entrance are to remain and as the new pedestrian entrance to the school will be from Bolham Road the current situation is more likely to remain the norm. Should problems arise, Traffic Regulation Orders can be put in place to prevent stopping as well as deal with the issues of perceived speed in Lea Road.

Devon County Highway Authority has considered the proposal in detail and changes have been incorporated into the design to meet Highway Authority requirements. Subject to conditioning the provision of the access facilities in accordance with the revised drawings, the Highway Authority has no objections.

The proposal is considered to comply with policies COR9 of the Mid Devon Core Strategy (LP1) and DM2 and DM8 of the Local Plan 3 Development Management Policies in relation to access and parking arrangements.

4. Sports provision.

Policy DM26 of the Local Plan 3 Development Management Policies requires that playing fields are protected from development unless it can be demonstrated that the site is surplus to requirements or the loss would be replaced by equivalent or better sports provision. Whilst the development would comply with policy DM26 at after completion of the project, Sport England has its own policies that are more stringent.

Sport England has issued Playing Field Policy and Guidance (March 2018). Sport England opposes granting planning permission for any development which would lead to the loss of, or would prejudice the use of all or part of a playing field, land which has been used as a playing field and remains undeveloped or land allocated for use as a playing field. The opposition to development in these circumstances by Sport England is unless the development as a whole meets one or more specific exceptions. Sport England's Playing Fields Policy E4 deals with one of these exceptions and states that:

The playing field or playing fields which would be lost as a result of the proposed development would be replaced by a playing field or playing fields of an equivalent or better quality and of equivalent or greater quantity, in a suitable location and subject to equivalent or better management arrangements, prior to the commencement of development.

The development would result in the loss of 2 sports pitches outside the flood zone which will be compensated for by the provision of new sporting facilities on the existing school site. These new facilities include a new sports hall (in addition to the existing sports hall) and a full size artificial pitch that are both designed so they will not flood. There are a number of existing sports pitches on the existing school site within the flood zone that are to remain as they are.

Sport England has confirmed that the proposal shows a quantum of playing field land at the end of Phase 6 that shows an equivalent or greater quantity, and that the inclusion of a 3G AGP in phase 1 will help with the reduction of playing field land until Phase 6 (see the section on phasing above).

Sport England remain concerned that grass pitches remain within the flood zone and may flood in extreme flood events, and that phase 6 of the development (provision of the remainder of the sports facilities) may never be completed. They are also concerned that the proposal does not provide fully for community use.

The applicant has responded to Sport England that there is every intention to carry out all phases of the school location in one operation if at all possible and the school is lobbying for funding to be able to achieve this. The applicant has also confirmed that the clubs currently using the school's facilities will have uninterrupted access to the playing fields during the relocation.

The need to remove school buildings before being able to provide new sports facilities on the current site means it is not possible to provide the new facilities before commencement of the build. However, the relocation has been phased to ensure that sporting facilities are available throughout. When complete, the loss of sports pitches resulting from the proposed development would be replaced with equivalent or better provision in terms of quantity and quality in a suitable location, in accordance with policy DM26 of the Local Plan 3 Development Management Policies and the NPPF.

It is recommended that a condition be imposed on any planning permission to the effect that a detailed phasing plan and timetable for the provision of the sports pitches, in tandem with the delivery of the new school, be submitted for approval.

Your officers have requested draft recommended conditions from Sport England without prejudice to their objection, but as at the date of writing this report, no response has been received.

At the time of writing this report, Sport England is sustaining an objection to the proposal. For this reason, if the Local Planning Authority is minded to approve the application, it is necessary to refer the application to the National Planning Casework Unit under The Town and Country Planning (Consultation) (England) Direction 2009, for a decision as to whether the Secretary of State wishes to call in the application.

5. Layout and design.

Policy DM2 of the Local Plan 3 Development Management Policies sets out a number of criteria for high quality design. Development must demonstrate a clear understanding of the characteristics of the site, its wider context and the surrounding area; make efficient and effective use of the site; and create safe and accessible places that also encourage sustainable modes of travel such as walking and cycling. Development should create visually attractive places that are well integrated with surrounding buildings, streets and landscapes.

Only the principle of development and means of access are to be determined under this outline application. The layout and scale of the development, appearance of the buildings and landscaping are all reserved matters to be considered under later reserved matters applications.

However, the site has been masterplanned and an indicative layout and visualisations have been provided to show how it is anticipated the school and Community Arts Theatre will look. It is anticipated that the buildings will be a maximum of 3 storeys around a central “street” with tree planting.

Each block will be identified by a different coloured atrium to reflect the school’s house colours and have windows set into the external corners to create views across and along the street to enhance openness. Bold signage will also be incorporated to identify the teaching departments. Each School block will differ in the detail of its planning and pattern of its windows and roof lights.

It is intended that the material palette be restrained: walls should be white or off-white through-colour modern lime render with accent colours. and detailing in materials including glass, steel, timber and zinc. A soft red brick may be selected for the walls of the theatre and other buildings fronting Bolham Road. The theatre will provide a strong frontage to the site and include all 6 school house colours in its design.

There will be drop off facilities and accessible parking to the front of the complex and a bridge link across to the sports facilities and car park area. Safe and secure access between each area over the new bridge has been addressed by inclusion of accessible ramps and a lift.

From the information provided, a high quality development that meets the criteria of policy DM2 is possible. Devon & Cornwall Police have made some recommendations for reserved matters applications.

Policy DM3 of the Local Plan 3 Development Management Policies considers how sustainable design and construction methods will be incorporated to achieve energy and water efficiency and resilience to climate change.

A statement has been received identifying a number of sustainability principles for the design and build including using solar gain, a fabric first approach and natural light and ventilation to reduce the carbon footprint of the school and an energy management system to allow monitoring and control of energy use during operation.

Policy DM4 of the Local Plan 3 Development Management Policies requires a waste management plan to be included in all major development proposals. The Design and Access Statement details the approach to be taken to waste management: reduce, reuse, recycle, where possible. A full waste audit statement will be included in each reserved matters application explaining how waste collection and sustainable waste management are incorporated into the design.

6. Other: heritage (archaeology), ecology, green infrastructure.

Policy DM27 of the Local Plan 3 Development Management Policies requires developers to assess the effect of the development on any heritage assets. There are no listed buildings or other heritage assets likely to be affected. Assessment of the results of the geophysical survey does not suggest that the development will have any impact upon any known heritage assets with archaeological interest.

Policy DM2 of the Local Plan 3 Development Management Policies requires development to make a positive contribution to any biodiversity assets on the site. Separate environmental legislation protects species and their habitats. Policy DM28 requires major development to incorporate green infrastructure.

An ecology report has been submitted which concludes that the playing fields and hedges to the east of Bolham Road have a limited ecological and habitat value, and relocation of the school offers more opportunities than threats to the site's habitat value. Habitat enhancement measures are to be included within the landscaping design at reserved matters stage and these enhancement measures can contribute towards the provision of green infrastructure.

7. Planning balance.

The relocation of the school meets a number of sustainability objectives including the provision of an expanded and modern education facility, new community arts theatre and improved accessibility. In particular, the project brings substantial benefits in respect of a reduction in flood risk to the school itself and to the wider area through relocation of the school out of the flood zone and improved flood risk measures along the River Exe. These benefits are considered to carry significant weight in determining the application and are supported by the Environment Agency. However, Sport England has identified harm to the application through the loss of 2 sports pitches outside the flood zone on land on which the new school would be built, albeit there is an overall betterment to sports provision when the development is complete. This harm weighs against approval of the application. Whilst your officers consider the benefits of the proposal to outweigh the temporary loss of sports pitches, an objection from Sport England means that the Local Authority is unable to grant planning permission without first referring the application to the National Planning Casework Unit for a decision as to whether the Secretary of State wishes to call in the application.

CONDITIONS

1. Before development begins, detailed drawings to an appropriate scale of the scale and appearance of the buildings and the landscaping (the Reserved Matters) shall be submitted to and approved in writing by the Local Planning Authority.
2. Application(s) for approval for all the Reserved Matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.
3. The development hereby permitted shall begin 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 latter.
4. The details required to be submitted by condition 1 shall include the following additional information: boundary treatments, proposed site levels and finished floor levels, waste audit statement.
5. Prior to the submission of the first reserved matters application for the development hereby approved, a detailed assessment to determine the feasibility of the flood risk reduction measures proposed in the submitted Addendum to the Flood Risk Assessment dated February 2018 shall be submitted to and agreed in writing by the Local Planning Authority.
6. Prior to the submission of the first reserved matters application for the development hereby approved, a programme (including a timetable for implementation) of flood reduction measures for each phase, or combination of phases, as identified in the Flood Risk Assessment dated April 2017, Addendum to the Flood Risk Assessment dated February 2018 and detailed assessment required by condition 5 above, shall be submitted to and approved in writing by the Local Planning Authority. The approved measures shall be fully implemented in accordance with the approved programme and timetable.
7. Prior to the submission of the first reserved matters application, a schedule of sports pitch provision to include performance quality standards*, phasing and a timetable for delivery (the 3G AGP to be delivered within Phase 1), shall be submitted to and approved in writing by the Local Planning Authority. The development shall proceed in accordance with the agreed schedule and timetable.
8. No development shall begin until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. Such Construction Management Plan shall include:
 - a. the timetable of the works
 - b. daily hours of construction
 - c. any road closure
 - d. hours during which delivery and construction traffic will travel to and from the site
 - e. the number and sizes of vehicles visiting the site in connection with the development and the frequency of their visits
 - f. the compound/location where all building materials, finished or unfinished products, parts, crates, packing materials and waste will be stored during the demolition and construction phases
 - g. areas on site where delivery vehicles and construction traffic will load or unload

building materials, finished or unfinished products, parts, crates, packing materials and waste

- h. the means of enclosure of the site during construction works
- i. details of parking and proposals to promote car sharing amongst construction staff
- j. details of wheel washing facilities and road cleaning obligations
- k. measures to control noise, dust and other pollution during the construction period

The development shall be carried out in accordance with the approved Construction Management Plan.

- 9. No part of the development hereby approved shall be brought into its intended use until the access, parking facilities commercial vehicle loading/unloading area, visibility splays, turning area, parking spaces and access drainage indicated on drawings numbered HBS-DR-C-(00)-061-P3 and 173091-G-01 rev C received by the Local Planning Authority on 26 February 2018 have been provided in accordance with details that shall have been submitted to and approved in writing by the Local Planning Authority. Once provided, such facilities shall be retained and maintained for that purpose at all times.
- 10. Details to be approved under condition 9 above shall include provision within the site for the disposal of surface water so that none drains on to any County Highway.
- 11. No development shall begin until a programme of percolation tests has been carried out in accordance with BRE Digest 365 Soakaway Design (2016), and the results approved in writing by the Local Planning Authority. A representative number of tests shall be conducted to provide adequate coverage of the site, with particular focus placed on the locations and depths of the proposed infiltration devices.
- 12. No development shall begin until full results of a groundwater monitoring programme, undertaken over a period of 12 months, have been submitted to and approved in writing by the Local Planning Authority. This monitoring should be conducted to provide adequate coverage of the site, with particular focus placed on the locations and depths of the proposed infiltration devices.
- 13. No development shall begin until a detailed design of the proposed permanent surface water drainage management system has been submitted to and approved in writing by the Local Planning Authority. The design shall be informed by the programme of percolation tests and groundwater monitoring required by conditions 11 and 12 above, and in accordance with the principles set out in the submitted Addendum to the Flood Risk Assessment dated February 2018 and the relevant sections of the submitted Foul and Surface Water Strategy Statement. The approved permanent surface water drainage management system shall be implemented in accordance with the approved details before the development is first occupied and thereafter permanently retained and maintained for that purpose.
- 14. No development shall begin until a detailed design of the proposed temporary surface water drainage management system which will serve the development site for the full period of its construction has been submitted to and approved in writing by the Local Planning Authority. The temporary surface water drainage management system must satisfactorily address both the rates and volumes, and quality, of the surface water run-off from the construction site. The approved temporary surface water drainage management system shall be installed before development begins and be retained and maintained throughout the construction period.

REASONS FOR CONDITIONS

1. In accordance with the provisions of Section 92(2) of the Town and Country Planning Act 1990 as amended by Section 51 Planning and Compulsory Purchase Act 2004.
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 ensure that adequate information is available for the proper consideration of the detailed proposals.
5. To determine the feasibility of flood risk reduction measures required by the development in accordance with Policy COR11 of the Mid Devon Core Strategy (Local Plan Part 1).
6. To reduce flood risk in accordance with Policy COR11 of the Mid Devon Core Strategy (Local Plan Part 1).
7. To ensure delivery of sports pitches of an adequate standard and in a timely manner, in accordance with Policy DM26 of the Local Plan Part 3 (Development Management Policies).
8. To ensure adequate facilities are available on site during the construction period in the interests of highway safety and to protect the amenities of existing residents, in accordance with Policy DM2 of the Mid Devon Local Plan 3 (Development Management Policies).
9. To ensure that adequate facilities are available for the traffic attracted to the site in accordance with policies COR9 of the Mid Devon Core Strategy (LP1) and DM2 of the Mid Devon Local Plan 3 (Development Management Policies).
10. In the interest of public safety and to prevent damage to the highway.
11. To ensure that surface water from the development is discharged as high up the drainage hierarchy as is feasible in accordance with Policy DM2 of the Local Plan Part 3 (Development Management Policies).
12. To ensure that the use of infiltration devices on the site is an appropriate means of surface water drainage management, in accordance with Policy DM2 of the Local Plan Part 3 (Development Management Policies).
13. 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, in accordance with Policy COR11 of the Mid Devon Core Strategy (Local Plan Part 1).
14. 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, in accordance with Policy COR11 of the Mid Devon Core Strategy (Local Plan Part 1).

INFORMATIVES

1. You are advised that the 3G AGP to be delivered in phase 1 should be built to performance quality standards/ FIFA Quality for Football, to World Reg 22 for Rugby, to include lighting, fencing, line marking, type of surface and shock pad and maintenance.
2. You are advised that natural turf pitches to be created should be to Natural Turf for Sport/performance quality standards and future maintenance regimes devised and implemented.

REASON FOR APPROVAL OF PERMISSION

The proposal is considered to be acceptable in that the relocation of the school meets a number of sustainability objectives including the provision of an expanded and modern education facility and community arts theatre and improved accessibility. In particular, the development is considered to bring significant benefits in respect of a reduction in flood risk to the school itself and to the wider area through relocation of the school out of the flood zone and improved flood risk measures along the River Exe. Subject to conditions requiring additional details, the access, parking and drainage proposals are considered to be acceptable. Whilst the development would result in an overall betterment in sports provision once the development is complete, there will be a temporary loss in playing pitch capacity during the relocation of the school. The development is considered to be in accordance with the relevant Policies: COR1, COR9, COR11 and COR13 of the Mid Devon Core Strategy (Local Plan Part 1) and DM1, DM2, DM3, DM4, DM8, DM24, DM25, DM26 and DM28 of the Local Plan Part 3 (Development Management Policies), and the National Planning Policy Framework.

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

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Relocation
Master Plan
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Outline
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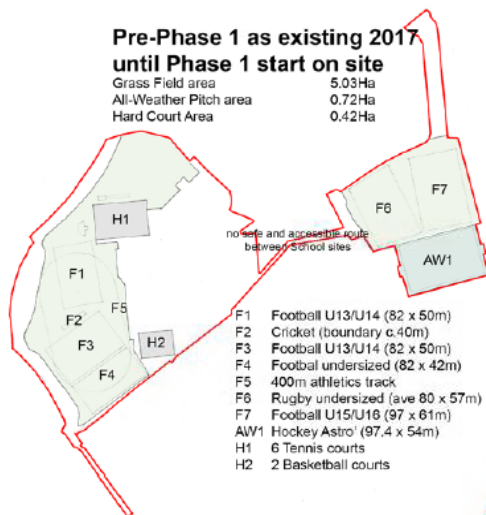
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Pre-Phase 1 as existing 2017 until Phase 1 start on site

Grass Field area 5.03Ha
All-Weather Pitch area 0.72Ha
Hard Court Area 0.42Ha



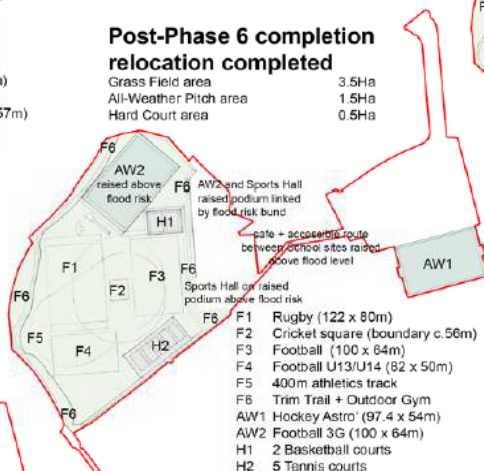
- F1 Football U13/U14 (82 x 50m)
- F2 Cricket (boundary c.40m)
- F3 Football U13/U14 (82 x 50m)
- F4 Football undersized (82 x 42m)
- F5 400m athletics track
- F6 Rugby undersized (ave 80 x 57m)
- F7 Football U15/U16 (97 x 61m)
- AW1 Hockey Astro' (97.4 x 54m)
- H1 6 Tennis courts
- H2 2 Basketball courts

Key

- Grass Field (F1, F2 etc)
- All-Weather Pitch (AW1, AW2 etc)
- Hard Court (H1, H2 etc)

Post-Phase 6 completion relocation completed

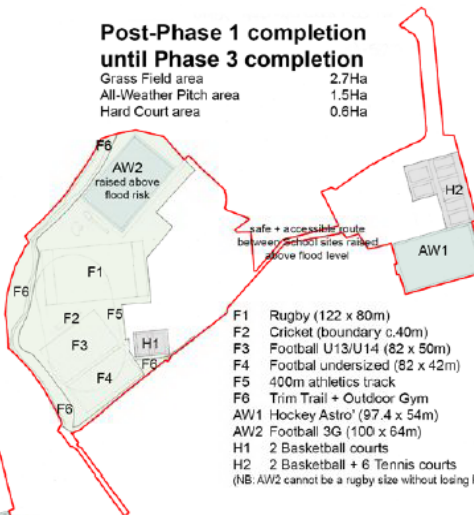
Grass Field area 3.5Ha
All-Weather Pitch area 1.5Ha
Hard Court area 0.5Ha



- F1 Rugby (122 x 80m)
- F2 Cricket square (boundary c.56m)
- F3 Football (100 x 64m)
- F4 Football U13/U14 (82 x 50m)
- F5 400m athletics track
- F6 Trim Trail + Outdoor Gym
- AW1 Hockey Astro' (97.4 x 54m)
- AW2 Football 3G (100 x 64m)
- H1 2 Basketball courts
- H2 5 Tennis courts

Post-Phase 1 completion until Phase 3 completion

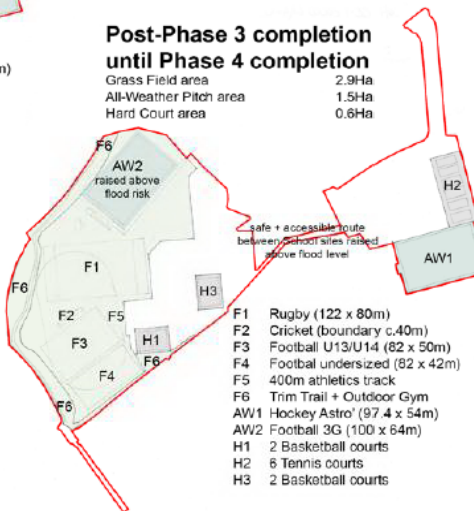
Grass Field area 2.7Ha
All-Weather Pitch area 1.5Ha
Hard Court area 0.6Ha



- F1 Rugby (122 x 80m)
- F2 Cricket (boundary c.40m)
- F3 Football U13/U14 (82 x 50m)
- F4 Football undersized (82 x 42m)
- F5 400m athletics track
- F6 Trim Trail + Outdoor Gym
- AW1 Hockey Astro' (97.4 x 54m)
- AW2 Football 3G (100 x 64m)
- H1 2 Basketball courts
- H2 2 Basketball + 6 Tennis courts

Post-Phase 3 completion until Phase 4 completion

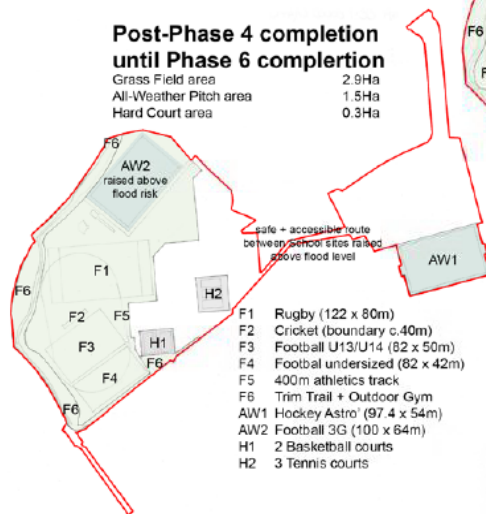
Grass Field area 2.9Ha
All-Weather Pitch area 1.5Ha
Hard Court area 0.6Ha



- F1 Rugby (122 x 80m)
- F2 Cricket (boundary c.40m)
- F3 Football U13/U14 (82 x 50m)
- F4 Football undersized (82 x 42m)
- F5 400m athletics track
- F6 Trim Trail + Outdoor Gym
- AW1 Hockey Astro' (97.4 x 54m)
- AW2 Football 3G (100 x 64m)
- H1 2 Basketball courts
- H2 6 Tennis courts
- H3 2 Basketball courts

Post-Phase 4 completion until Phase 6 completion

Grass Field area 2.9Ha
All-Weather Pitch area 1.5Ha
Hard Court area 0.3Ha



- F1 Rugby (122 x 80m)
- F2 Cricket (boundary c.40m)
- F3 Football U13/U14 (82 x 50m)
- F4 Football undersized (82 x 42m)
- F5 400m athletics track
- F6 Trim Trail + Outdoor Gym
- AW1 Hockey Astro' (97.4 x 54m)
- AW2 Football 3G (100 x 64m)
- H1 2 Basketball courts
- H2 3 Tennis courts



TCAT

Relocation
Master Plan
2017

Outline
Planning
Issue

drawing
PL/23

External Sports Areas during Phases

nps group

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Major Applications with no Decision

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

Item No.	Weeks	TARGET DATE	REFVAL	PROPOSAL	LOCATION	NAME	Expected Decision Level	
							Delegated	Committee
1	1	27/06/2018	18/00504/MOUT	Outline for the erection of 10 dwellings	Land at NGR 307538 116626 (North of Town Farm) Burlescombe Devon	Mr Adrian Devereaux	DEL	
2	3	12/06/2018	18/00380/MARM	Reserved Matters (Phase 2) in respect of the appearance, landscaping, layout and scale of three industrial buildings (B1, B2, and B8 use), following Outline approval 09/01573/MOUT (and varied by 16/01948/FULL and 17/00558/FULL)	Land and Buildings at NGR 303161 108402 (Venn Farm) Cullompton Devon	Ms Tina Maryan	DEL	
5	5	28/05/2018	18/00299/MOUT	Outline for the erection of mixed use business units (Classes B1, B2 & B8), cafe (Class A3) and managers office (1.9ha) with associated highway and drainage works	Quad World Bradninch Exeter EX5 4LB	Mr David Green	DEL	
	6	23/05/2018	18/00091/MFUL	Conversion of former redundant care home to provide 22 residential units, and external landscaping	St Lawrence Home Churchill Drive Crediton Devon EX17 2EF	Mr Simon Trafford	COMM	COMM
5	6	22/05/2018	18/00214/MFUL	Erection of 14 dwellings with associated roads, garages and parking	Land at NGR 310280 114261 Hunters Hill Culmstock Devon	Miss Hannah Cameron	COMM	COMM
6	9	02/05/2018	18/00133/MARM	Reserved Matters application, pursuant to Outline application 13/01616/MOUT, for the construction of 248 dwellings, 3 Gypsy and Traveller pitches, public open space, landscape planting, pedestrian, cycle and vehicular links; and associated infrastructure	Land at NGR 298617 113487 Updown Road Tiverton Devon	Mrs Christie McCombe	COMM	COMM
7	10	24/04/2018	17/01904/MFUL	Change of use and refurbishment of house to hotel and spa with 24 letting rooms, Piazza garden, 36 letting rooms in Pavilion (60 letting rooms in total) with Botanical Gardens, restoration of walled garden with new orchard and amphitheatre, erection of 7 detached dwellings, all associated car parking and erection of bat house	Blackborough House Blackborough Cullompton Devon EX15 2HJ	Mr Daniel Rance	COMM	COMM

<i>Item</i>							<i>Expected Decision Level</i>	
<i>No.</i>	<i>Weeks</i>	<i>TARGET DATE</i>	<i>REFVAL</i>	<i>PROPOSAL</i>	<i>LOCATION</i>	<i>NAME</i>	<i>Delegated</i>	<i>Committee</i>
8	10	27/04/2018	18/00175/MOUT	Outline for the erection of upto 125 dwellings with public open space and associated infrastructure	Land at NGR 303288 110467 Adj Meadow Park Silver Street Willand Devon	Mrs Alison Fish	COMM	COMM
9	13	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	COMM	COMM
10	24	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
11	28	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
12	30	04/12/2017	17/01359/MOUT	Outline for the erection of 60 dwellings and construction of new vehicular access onto highway to the West of the site	Land and Buildings at NGR 302469 114078 Higher Town Sampford Peverell Devon	Mr Daniel Rance	COMM	COMM
13	33	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
14	33	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
15	35	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
16	38	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

<i>Item</i>							<i>Expected Decision Level</i>	
<i>No.</i>	<i>Weeks</i>	<i>TARGET DATE</i>	<i>REFVAL</i>	<i>PROPOSAL</i>	<i>LOCATION</i>	<i>NAME</i>	<i>Delegated</i>	<i>Committee</i>
17	39	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
18	42	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
19	44	29/08/2017	17/00878/MOUT	Outline for the erection of up to 16 dwellings with associated access, landscaping and other ancillary development	Land at NGR 292294 101802 (South of Broadlands) Thorverton Devon	Miss Lucy Hodgson	COMM	COMM
20	56	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	72	15/02/2017	16/01772/MOUT	Outline for the erection of upto 40 dwellings (including affordable housing), public open space and associated infrastructure	Land at NGR 313382 113489 Culmstock Road Hemyock Devon	Ms Tina Maryan	COMM	COMM
22	74	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 10th March 2018 to 6th April 2018

Application No	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
16/01988/MOUT	Outline for the erection of up to 74 dwellings	Land at NGR 301106 107155 Knowle Lane Cullompton Devon	Refuse permission	Delegated Decision	Refuse permission	Informal Hearing	Allow with Conditions

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PLANNING COMMITTEE

DATE: 18TH APRIL 2018

REPORT OF THE HEAD OF PLANNING, ECONOMY AND REGENERATION

COMMITTEE DECISIONS 2017/18 WHICH WERE NOT IN AGREEMENT WITH OFFICER RECOMMENDATION.

Cabinet Holder Cllr Richard Chesterton

Responsible Officer Mrs Jenny Clifford, Head of Planning, Economy and Regeneration

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

RECOMMENDATION: That the report be noted.

Relationship to Corporate Plan: Planning decision making is relevant to achieving corporate priorities: improving and regenerating our town centres, facilitating the housing growth that Mid Devon needs including affordable homes; planning and enhancing the built environment and protecting our environment.

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

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

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

Equality Impact assessment: No equality issues identified in this report.

- 1.0 Attached at **Appendix 1** is a summary of applications where the Planning Committee have made decisions not in agreement with officer recommendations. The report covers the period from 1st April 2017 until 31st March 2018. (Please note that one of the applications appears twice on the attached list).
- 2.0 The number of cases during the 17/18 financial year was 8, of which 2 were Ward Member call ins. Comparison with the figures for previous years is as follows:

2009	2010	2011	2012	2013	2014	2015/16	2016/17	2017/18
8	10	6	11	12	3	7	11	8

6 were granted planning permission with conditions and 2 were refused permission contrary to officer recommendation. Of the 2 refusals, 1 has been allowed at appeal (17/00300/MOU 30 dwellings Uffculme Road, Uffculme) and 1 is expected to be the subject of an appeal (17/00652/MOUT 30 dwellings land NE Rydon House, Willand).

- 3.0 In accordance with the agreed protocol, cases where Members wish to refuse permission contrary to an Officer recommendation for approval requires a deferral of the item for the receipt of a report setting out the implications of the proposed decision and the reasons given with Members indicating the decision that they are minded to make. Since April 2016, if Members wish to approve contrary to an officer recommendation to refuse permission, the protocol does not require that the item be deferred. However Members will need to give clear reasons for granting permission taking into account the requirement for the determination of planning applications to be in accordance with the development plan unless any other material planning considerations indicate otherwise. 6 such overturned cases were recorded in the last financial year.

Contact for any more information	Mr David Green, Group Manager for Development 01884 234348 dgreen@middevon.gov.uk Mrs Jenny Clifford, Head of Planning, Economy and Regeneration 01884 234346 jclifford@middevon.gov.uk
Background Papers	Planning Committee agendas and minutes 2016 - 2017
File Reference	None.
Circulation of the Report	Members of Planning Committee, Cllr Richard Chesterton.

Decision Against Officer Recommendation from 01/04/2017

Date of Planning Committee	Application No.	Description	Location	HOP Recom'd	Planning Committee Decision	Member Call-in	Appeal Status
19/04/2017	16/01362/FULL	Conversion of 5 redundant agricultural buildings to 5 dwellings	Land and Buildings at NGR 279371 101700 (Spencecombe) Crediton Devon	Refuse permission	Permitted with Conditions to Discharge	Yes	
14/06/2017	17/00300/MOU	Outline for the erection of 30 dwellings and new vehicular and pedestrian accesses(APPEAL ALLOWED 02.10.17)	Land at NGR 305578 112053 Uffculme Road Uffculme Devon	Subject to the provision of a S106 Com	Refuse permission	Yes	Allow with Conditions
04/10/2017	17/01108/OUT	Outline for the erection of a dwelling and new vehicular access	Land and Buildings at NGR 301748 115242 North-East of Twin Oaks Uplowman Devon	Refuse permission	Permitted with Conditions to Discharge		
01/11/2017	17/01430/FULL	Installation of 8 replacement windows to West elevation	17 St Peter Street Tiverton Devon	Refuse permission	Grant permission		
01/11/2017	17/01431/LBC	Listed Building Consent for the installation of 8 replacement windows to West elevation	17 St Peter Street Tiverton Devon	Refuse Listed Building Consent	Grant permission		
29/11/2017	17/01414/FULL	Conversion of disused former office/workshop/store to dwelling	Building at NGR 268200 111519 Eggesford Station Yard Eggesford Devon	Subject to the provision of a S106 Com	Permitted with Conditions to Discharge		
28/02/2018	17/00652/MOU	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	Subject to the provision of a S106 Com	Refuse permission		
28/02/2018	17/00652/MOU	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	Subject to the provision of a S106 Com	Refuse permission		

Date of Planning Committee	Application No.	Description	Location	HOP Recom'd	Planning Committee Decision	Member Call-in	Appeal Status
28/02/2018	17/01517/FULL	Erection of a dwelling and alterations to existing vehicular access	27 Downeshead Lane Crediton Devon EX17 1HH	Refuse permission	Permitted with Conditions to Discharge		

PLANNING COMMITTEE

DATE: 18TH APRIL 2018

REPORT OF THE HEAD OF PLANNING, ECONOMY AND REGENERATION

APPEAL DECISIONS AND PERFORMANCE 17/18

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

Reason for Report: To provide information on the outcome of planning appeals for the financial year 17/18.

RECOMMENDATION: That the report be noted.

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

Financial Implications:

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

Legal Implications:

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

Risk Assessment:

Appeal statistics provide a useful check on decision making by comparing appeal outcomes with those nationally, the number of appeals and outcomes with previous years and whether any costs have been awarded against the Council on the basis of unreasonable behaviour.

A risk to the Council are the increasingly tight thresholds that the Government is seeking to apply over appeal performance as an indicator of the quality of planning application decision making, particularly in respect of major applications. The service is currently meeting these threshold requirements for both major and non-major applications. The indicators are as follows:

- Majors: Applications determined over a 2 year period, no more than 10% of decisions to be overturned at appeal. The Mid Devon figure over the 2 year period ending March 2018 was 5%.

- Non-majors: Applications determined over a 2 year period, no more than 10% of decisions to be overturned at appeal. The Mid Devon figure over the 2 year period ending March 2018 was less than 1%.

There is increased risk of designation as underperforming as a result of percentage of major applications overturned at appeal over a 2 year period. This is particularly the case in the current Mid Devon planning environment with the lack of a 5 year housing land supply and accordingly increased major residential application activity on non-allocated sites.

Equality Impact Assessment:

No equality issues identified for this report.

1.0 APPEAL PERFORMANCE AND NATIONAL COMPARISON.

- 1.1 Attached at **Appendix 1** is a summary of planning appeals determined between 1st April 2017 – 31st March 2018. 28 appeals were determined within that period.

1	(3%)	Withdrawn
8	(29%)	Allowed
19	(68%)	Dismissed

- 1.2 The total number of appeals is slightly less than the last few years. Planning Inspectorate statistics for the whole of the financial year 2017/18 are not yet available. Those issued to date (quarters 1, 2 and 3) of this financial year indicate the percentage of all planning application appeals allowed nationally (England) to be between 31% - 32%. The figure for all allowed appeals in Mid Devon over the whole of 2017/18 is just below the national average, being at 29%. However it is to be noted that the Mid Devon 68% dismissed appeal percentage for 17/18 this is down on the 78% recorded in 16/17.
- 1.3 5 appeal decisions between 1st April 2017 and 31st March 2018 related to major applications. Of those, 2 were allowed and 3 were dismissed.

2.0 ALLOWED APPEALS.

- 2.1 Of the 8 appeals allowed, 6 were decided under delegated powers. The remaining 2 were determined by Planning Committee contrary to officer recommendation:

16/01117/FULL Change of use of agricultural land and buildings to form camping site, 2 shepherds hut pitches, 2 safari tent pitches, 6 bell tent pitches; conversion of stables to shower /toilets, office, meeting room, sensory room for visitor, washing facilities and storage; erection of 2 blocks to serve campsite; formation of equestrian areas for grazing of miniature horses, Ingleton farm, Ashill.

17/00300/MOUT Outline for the erection of 30 dwellings and new vehicular and pedestrian access, Land at Uffculme Road, Uffculme.

3.0 DISMISSED APPEALS.

3.1 Of the 19 dismissed appeals, 3 were determined or considered by Planning Committee:

15/01604/MFUL Erection of 5 poultry units and biomass boiler unit; formation of attenuation pond, access track and hardstanding; landscaping and associated infrastructure, Gibbett Moor Farm, Templeton.

16/00180/FULL Erection of 2 dwellings following demolition of existing dwelling (revised scheme), 19 Exeter Road, Silverton.

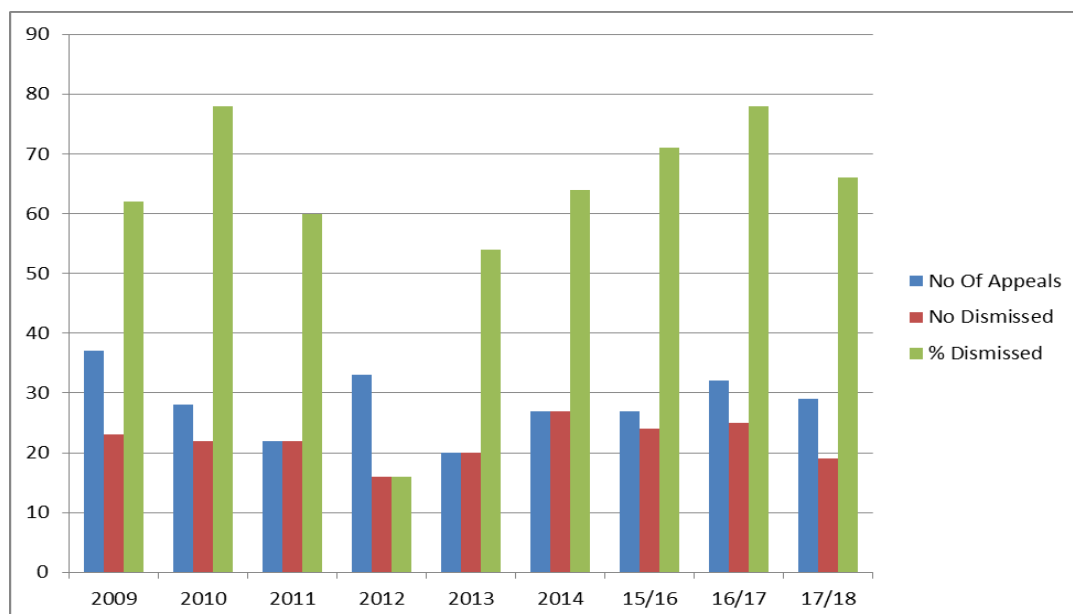
17/00395/FULL Erection of a barn to house flexible generation and energy storage plant with associated infrastructure, access, cable route and landscaping, land and buildings at Woodford Farm, Witheridge.

3.2 15 were considered by officers under delegated powers.

4.0 COMPARISON WITH PREVIOUS PERIODS.

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

2009 37 appeals, 23 (62%) dismissed.
2010 28 appeals, 22 (78%) dismissed.
2011 37 appeals, 22 (60%) dismissed
2012 33 appeals, 16 (48.5%) dismissed
2013 37 appeals, 20 (54%) dismissed
2014 42 appeals, 27 (64%) dismissed
15/16 34 appeals, 24 (71%) dismissed
16/17 32 appeals, 25 (78%) dismissed
17/18 29 appeals, 19 (66%) dismissed



5.0 GOVERNMENT TARGETS FOR APPEAL PERFORMANCE.

- 5.1 The performance of each authority in terms of speed and quality of decision making is monitored. The measure now used to assess the quality of decision making is the average percentage of decisions on applications for all major and non-major development that have been overturned on appeal. The threshold applied by the Government for inadequate performance by a Local Planning Authority in the quality of decision making is if more than 10% of all application decisions made over the previous two years have been overturned at appeal. This is divided into major and non-major categories. The Government's assessment is over a 2 year period. Over the previous two year period the Council's performance against this measure has met the Government's requirements.
- 5.2 For Members information where a Local Planning Authority is designated as underperforming it is required to produce an action plan to address areas of weakness. Designation also grants applicants for major development a choice over whom to submit their application to. It introduces the ability to apply for planning permission directly to the Planning Inspectorate as an alternative to applying to the Local Planning Authority. Application assessment and decision making is therefore removed from the local level. In these circumstances the Local Planning Authority does not receive an application fee, but is still responsible for certain administration functions associated with the applications.

Contact for Information:

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Regeneration
01884 234346
jclifford@middevon.gov.uk

Circulation of the Report:

Cllr Richard Chesterton
Members of Planning Committee

List of Background Papers:

Planning Committee agendas and minutes
2017/18.
DCLG Improving planning performance – Criteria
for designation November 2016
DCLG Planning performance and the planning
guarantee –Government response to consultation.
June 2013
DCLG Technical consultation on implementation of
planning changes February 2016
Growth and Infrastructure Act 2013
Planning Inspectorate Statistical Report: England
2017/18, Quarters 1, 2 and 3

List of Appeal Decisions from 01/04/2017 to 31/03/2018

Application No.	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
15/00100/NUCU	Unauthorised material change of use of land from agriculture to a mixed use of agriculture and use for the siting of a caravan for human habitation. APPEAL DISMISSED WITH VARIATION - 20TH APRIL 2017	Caravan 1 & 2 Down Farm Buildings Burlescombe Tiverton Devon EX16 7LF		Delegated		Enf Public Inquiry	Appeal Dismissed
15/01775/CLU	Certificate of Lawfulness for existing use of caravan as residential dwelling for a period in excess of 10 years APPEAL DISMISSED 20TH APRIL 2017	Land and Buildings at NGR 306655 114226 (Kerrells) Burlescombe Devon	Refuse Certificate of Lawful Use	Delegated	Refuse permission	Public Inquiry	Appeal Dismissed
16/01470/HOUS	Formation of parking bay following demolition of wall and outbuilding with retention of arched gateway - APPEAL DISMISSED 10.05.2017	Lamorna Peoples Park Road Crediton Devon EX17 2DA	Refuse permission	Delegated	Refuse permission	Householder Appeal	Appeal Dismissed

Application No.	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
16/01526/FULL	Variation of condition 2 of planning permission 16/00995/FULL for the substitution previously approved plans to enable the development of 2 storey dwellings on plots 3 and 4 - APPEAL DISMISSED 17/5/17	Land at NGR 302666 114116 (West of Paullet) Turnpike Sampford Peverell Devon	Refuse permission	Delegated	Refuse permission	Written Representations	Appeal Dismissed
16/01117/FULL	Change of use of agricultural land and buildings to form camping site, to include provision for 2 shepherds hut pitches, 2 safari tent pitches, and 6 bell tent pitches; conversion of existing stables to shower/toilets, office, meeting room, sensory room for visitors, washing facilities, and storage; erection of 2 new blocks to serve campsite; and formation of equestrian area for grazing of miniature horses (APPEAL ALLOWED 17.05.17)	Ingleton Farm Ashill Cullompton Devon EX15 3NP	Grant 3 year temporary permission	Varied	Permitted with Conditions to Discharge	Written Representations	Appeal Allowed

Application No.	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
16/01117/FULL	Change of use of agricultural land and buildings to form camping site, to include provision for 2 shepherds hut pitches, 2 safari tent pitches, and 6 bell tent pitches; conversion of existing stables to shower/toilets, office, meeting room, sensory room for visitors, washing facilities, and storage; erection of 2 new blocks to serve campsite; and formation of equestrian area for grazing of miniature horses (APPEAL ALLOWED 17.05.17)	Ingleton Farm Ashill Cullompton Devon EX15 3NP	Grant 3 year temporary permission	Varied	Permitted with Conditions to Discharge	Written Representations	Appeal Allowed
16/01139/TPO	Application to reduce the crown of 2 Oak trees (T15 & T17) by 1-2m and remove the limb of 1 Common Ash tree (T12) protected by Tree Preservation Order 08/00004/TPO (APPEAL DISMISSED 22.05.17)	The Oaks 3 The Gables Willand Cullompton Devon EX15 2FE	Refuse consent	Delegated	Application Part Granted/Part Refused	Written Representations	Appeal Dismissed
16/00924/MOUT	Outline for the erection of up to 60 dwellings and means of access (APPEAL DISMISSED 16.06.17)	Land and Buildings at NGR 277744 102582 (East of Dulings Farm) Copplestone Devon	Subject to the provision of a S106 Com	Overturned	Refuse permission	Written Representations	Appeal Dismissed

Application No.	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
15/00171/UCU	Unauthorised material change for use of land from agriculture to a mixed use of agriculture and use for storage of builders materials	Land at NGR 310656 113326 (Hillmoor) Culmstock Devon		Delegated		Enf Public Inquiry	Appeal Withdrawn
16/00180/FULL	Erection of 2 dwellings following demolition of existing dwelling (Revised Scheme) (APPEAL DISMISSED 15.08.17)	19 Exeter Road Silverton Exeter EX5 4HX	Subject to the provision of a S106 Del	Overturned	Refuse permission	Written Representations	Appeal Dismissed
16/01136/PNCO	Prior notification for the change of use of store to a dwelling under Class P APPEAL DISMISSED 21/08/17	Building at NGR 280637 101396 (Adjacent Glentor) Barnstaple Cross Devon EX17 2EP	Not Permitted Development	Delegated	Not Permitted Development	Written Representations	Appeal Dismissed
17/00300/MOUT	Outline for the erection of 30 dwellings and new vehicular and pedestrian accesses (APPEAL ALLOWED 02.10.17)	Land at NGR 305578 112053 Uffculme Road Uffculme Devon	Subject to the provision of a S106 Com	Overturned	Refuse permission	Written Representations	Allow with Conditions

Application No.	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
16/01343/PNCO	Prior notification for the change of use of agricultural building to dwelling under Class Q (APPEAL DISMISSED 13.10.17)	Land and Buildings at NGR 307104 113338 (Lane Northeast of Ashley Road) Uffculme Devon	Refusal of Prior Approval	Delegated	Refusal of Prior Approval	Written Representations	Appeal Dismissed
16/01768/FULL	Conversion of existing detached barn to dwelling (APPEAL ALLOWED 23.10.17)	Land and Buildings at NGR 284259 102707 Broxford House Upton Hellions Devon	Refuse permission	Delegated	Refuse permission	Written Representations	Allow with Conditions
16/01811/MOUT	Outline for the erection of up to 259 dwellings, with public open space, landscaping and associated infrastructure (APPEAL DISMISSED 03.11.17)	Land at NGR 303184 110348 Silver Street Willand Devon	Refuse permission	Delegated	Refuse permission	Informal Hearing	Appeal Dismissed
16/01075/FULL	Erection of a dwelling (APPEAL DISMISSED 27.11.17)	Land and Buildings at NGR 292707 102129 (Rear of The Old Bakery) Jericho Street Thorverton Devon	Refuse permission	Delegated	Refuse permission	Written Representations	Appeal Dismissed

Application No.	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
17/00334/CLU	Certificate of lawfulness for the existing use of structures as a single residential dwelling for a period in excess of 10 years (APPEAL DISMISSED 29.11.17)	The Bungalow Cheriton Fitzpaine Crediton Devon EX17 4HF	Refuse Certificate of Lawful Use	Delegated	Refuse permission	Written Representations	Appeal Dismissed
16/00140/UDRU	Erection of dwelling	Longwood Farm Burlescombe Tiverton Devon EX16 7JT		Delegated		Enf Written Reps	Appeal Allowed
17/00453/FULL	Erection of 4 dwellings following demolition of existing dwelling and formation of new accesses (Revised Scheme) (APPEAL DISMISSED 28.12.17)	The Firs Higher Mill Lane Cullompton Devon EX15 1AG	Refuse permission	Delegated	Refuse permission	Written Representations	Appeal Dismissed
17/00474/OUT	Outline for the erection of a dwelling and garage (APPEAL ALLOWED 11.01.18)	Holes Cottage Bary Close Cheriton Fitzpaine Crediton Devon EX17 4JH	Refuse permission	Delegated	Refuse permission	Written Representations	Appeal Allowed

Application No.	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
15/01604/MFUL	Erection of 5 poultry units (5040 sq. m) and biomass boiler unit; formation of attenuation pond, access track, and hardstanding; landscaping; and associated infrastructure (APPEAL DISMISSED 18.01.18)	Land at NGR 288027 116786 (Gibbett Moor Farm) Templeton Devon	Grant permission subject to conditions.	Overturned	Refuse permission	Written Representations	Appeal Dismissed
17/00782/FULL	Removal of condition 2 of planning permission 08/00597/FULL - building shall be used for agricultural purposes only (APPEAL ALLOWED 05.02.18)	Land at NGR 291002 107345 East Dunster Farm Cadeleigh Devon	Refuse permission	Delegated	Refuse permission	Written Representations	Appeal Allowed
17/01109/PNCO	Prior notification for the change of use of a building from office use (Class B1(a)) to 2 dwellings (Class C3) under Class 0 (APPEAL DISMISSED 06.02.18)	Land and Buildings at NGR 306735 107685 (1-4 Warren Units) Kentisbeare Devon	Refusal of Prior Approval	Delegated	Refusal of Prior Approval	Written Representations	Appeal Dismissed
16/01400/PNCO	Prior Notification for the change of use of an agricultural building to dwelling under Class Q (APPEAL DISMISSED 06.02.18)	Land at NGR 291002 107345 (East Dunster Farm) Cadeleigh Devon	Refusal of Prior Approval	Delegated	Refusal of Prior Approval	Written Representations	Appeal Dismissed

Application No.	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
17/00600/FULL	Retention of an office, workshop and restroom (APPEAL DISMISSED 08.02.18)	Green Acres Farm Coldridge Crediton Devon EX17 6BW	Refuse permission	Delegated	Refuse permission	Written Representations	Appeal Dismissed
17/00313/FULL	Change of use of vehicle workshop and MOT centre to 2 dwellings and formation of vehicular access (APPEAL DISMISSED 08.02.18)	Taw Valley Garage Chawleigh Chulmleigh Devon EX18 7JX	Refuse permission	Delegated	Refuse permission	Written Representations	Appeal Dismissed
17/01296/FULL	Removal of condition 2 of planning permission 10/00646/FULL pertaining to removal of agricultural building within 3 years of cessation of use (APPEAL ALLOWED 08.02.18)	Land at NGR 266917 112551 Rashleigh Lane Wembworthy Devon	Refuse permission	Delegated	Refuse permission	Written Representations	Allow with Conditions
17/00395/FULL	Erection of a barn to house flexible generation and energy storage plant with associated infrastructure, access, cable route and landscaping (APPEAL DISMISSED 13.02.18)	Land and Building at NGR 280066 113155 (Woodford Farm) Witheridge Devon	Refuse permission	Accepted	Refuse permission	Written Representations	Appeal Dismissed

Application No.	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
16/01988/MOUT	Outline for the erection of up to 74 dwellings (APPEAL ALLOWED WITH CONDITIONS 13.03.18)	Land at NGR 301106 107155 Knowle Lane Cullompton Devon	Refuse permission	Delegated	Refuse permission	Informal Hearing	Allow with Conditions

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PLANNING COMMITTEE

DATE: 18TH APRIL 2018

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

PLANNING PERFORMANCE AGAINST TARGETS QUARTER 4 OCTOBER – DECEMBER 17/18

RECOMMENDATION: For information and discussion.

REASON FOR REPORT:

To provide the Committee with information on the performance of aspects of the planning function of the Council for quarter 4 17/18

MATTERS FOR CONSIDERATION:

Performance against targets, the Government's performance assessment and resources within the Planning Service.

RELATIONSHIP TO CORPORATE PLAN:

The effective operation of the planning function of the Planning, Economy and Regeneration Service including the processing of applications is central to achieving priorities in the Corporate Plan.

FINANCIAL IMPLICATIONS: Planning performance has the potential for significant financial implications in the event that applications are not determined within 26 weeks or an extension of time negotiated. In that instance the planning fee is returned. Through the issue of planning permissions for new dwellings the service enables the award of New Homes Bonus money to the Council.

LEGAL IMPLICATIONS: The Government monitors planning performance in terms of speed and quality of decision making. In the event minimum standards are not met, an authority may be designated as underperforming with special measures applied that allow applicants for major development to apply for permission direct from the Planning Inspectorate and bypassing local decision making.

The speed measure is twofold: firstly the percentage of major applications determined within 13 weeks as measured over a 2 year period and secondly the percentage of non- major applications determined within 8 weeks as measured over a 2 year period. The targets of more than 60% and 70% respectively were met for the two year period ending March 2017. The Government's two year assessment period ended in September 2017. Accordingly it is important to continue to meet these targets.

The quality measure is also twofold: firstly the percentage of all major applications determined over a two year period that have been overturned at appeal and secondly, the percentage of all non-major applications determined over a two year period that have been overturned at appeal. The target for both measures of not less than 10% were met over the Government's assessment period.

RISK ASSESSMENT: Financial risk as a result of fee return and the designation of planning authorities in special measures for underperformance is referred to above. These aspects are actively monitored, to allow priorities to be adjusted as required to reduce the risk. However this risk is increasing with enhanced thresholds for intervention that also introduce measures for speed and quality of service to cover non-major applications. The speed and

quality of the determination of major applications has been the subject of Government performance indicators for some time.

The current absence of a 5 year housing land supply is resulting in speculative applications for major scale development on non-planned sites. Achieving the quality measure threshold for major application performance at appeal becomes more challenging within this context.

EQUALITY IMPACT ASSESSMENT: No equality issues identified for this report.

1.0 PLANNING PERFORMANCE

1.1 Set out below are the Planning Service performance figures for 2017/18 so far and showing a comparison against those achieved for 2015/16 and 2016/17. Performance data is published quarterly on the Council's website at <https://new.middevon.gov.uk/planning/performance-standards/>

1.2 Performance is set out below and expressed as a percentage unless marked otherwise and reports against a mix of Government and local performance targets.

Planning Service Performance	Target	15/16	16/17	17/18			
				Q1	Q2	Q3	Q4
Major applications determined within 13 weeks	60%	*47%	90%	75%	75%	86%	91%
Minor applications determined within 8 weeks	65%	68%	80%	82%	96%	76%	85%
Other applications determined within 8 weeks	80%	86%	89%	91%	91%	91%	89%
Householder applications determined in 8 weeks	85%	93%	98%	94%	94%	93%	96%
Listed Building Consents	80%	71%	84%	81%	81%	90%	84%
Enforcement site visits undertaken within 15 days of complaint receipt	87%	89%	96%	88%	99%	94%	88%
Delegated decisions	90%	94%	94%	95%	95%	90%	90%
No of applications over 13 weeks old without a decision	Less than 45 apps	40	29	41	42	43	51
Major applications determined within 13 weeks (over preceding 2 years)	More than 60%	53%	82%	83%	83%	83%	84%
Major applications overturned at appeal as % of all major decisions over preceding 2 years	Less than 10%	10%	7%	4%	3.5%	4%	5%
Non-major applications determined within 8 weeks (over preceding 2 years)	More than 70%	N/A	77%	79%	79%	78%	81%
Non-major applications overturned at appeal as % of all non-major decisions over preceding 2 years	Less than 10%	N/A	<1%	<1%	0.2%	0.2%	<1%

Determine all applications within 26 weeks or with an extension of time (per annum –Government planning guarantee)	100%	99%	100%	99%	99%	100%	99%
Building Regulations Applications examined within 3 weeks	95%	72%	88%	96%	86%	98%	97%
Building Regulation Full Plan applications determined in 2 months	95%	97%	91%	84%	95%	96%	99%

*Important note on application statistic reporting: The statistics for applications determined within 8/13 weeks reported above within 15/16 includes all applications and does not take into account any extensions of time agreed with the applicant or planning performance agreements (PPAs) that have been entered into. Government instructions to Councils over these performance targets remove reporting applications with extensions of time or PPAs from the targets as they are reported separately. Once these have been removed the percentage of major applications determined within 13 weeks compared with the target 60% for **15/16** shows that this performance target was met. For **16/17** and **17/18**, the applications determined within 8/13 weeks figure now include those where there has been an extension of time and indicate performance targets have been met.

2.0 APPLICATION PROCESSING- DEVELOPMENT MANAGEMENT.

2.1 As reported on previous occasions, the Government sets a range of additional performance targets for planning authorities in order to drive performance. Those for planning application decision making are used by the Government as indicators of performance in terms of both speed and quality of decision making. They are as follows:

Speed:

- Majors: More than 60% of major applications determined within 13 weeks (over 2 year period). Mid Devon performance on this for the 2 year period to the end of March 2018 was **84%**.
- Non majors: More than 70% of non-major applications determined within 8 weeks (over 2 year period). Mid Devon performance on this for the 2 year period to the end of March 2018 was **81%**.

Quality:

- Majors: Previous assessment round -Applications determined over a 2 year period, no more than 20% of decisions to be overturned at appeal. Current assessment period for the 2 years prior to the end of June 2017: no more than 10% of decisions to be overturned at appeal. The Mid Devon figure over the 2 year period ending March 2018 was **5%**.
- Non majors: This indicator of quality of decision making is measured over a 2 year assessment period to the end of June 2017: no more than 10% of decisions to be overturned at appeal. The Mid Devon figure over the 2 year period ending March 2018 was **less than 1%**.

Authorities not meeting these targets risk being designated as underperforming, resulting in the application of special measures.

- 2.2 Application determination performance results for Qu 4 17/18 indicate that the national planning performance indicators continue to be met and exceeded by the service. However this does rely in part upon the agreement of extensions of time with the applicant. There is provision for such agreements in accordance with Government methodology on calculating performance.
- 2.3 The 'planning guarantee' of 100% of applications determined within 26 weeks was recorded at 99%. Extensions of time are secured which reduces the financial risk to the Council of fee return. Such extensions of time are normally sought in order to secure completion of S106 agreements.
- 2.4 The number of applications over 13 weeks old without a decision at the end of this quarter was 51 against a locally set target of 45. The rise in this number of older applications on hand will need to be managed in the next quarter.

3.0 **APPLICATION PROCESSING – LOCAL BENCHMARKING.**

- 3.1 Performance figures for other south west authorities are available on the Government's website, allowing benchmarking. This information shows:

Percentage major decisions within 13 weeks or agreed extension of time year ending December 2017

Top performing SW authority	100%
Mid Devon	86%
Poorest performing SW authority	76%
England average	88%

Percentage minor decisions within 8 weeks or agreed extension of time year ending December 2017

Top performing SW authority	97%
Mid Devon	82%
Poorest performing SW authority	67%
England average	85%

Percentage other decisions within 8 weeks or agreed extension of time year ending December 2017

Top performing SW authority	99%
Mid Devon	91%
Poorest performing SW authority	66%
England average	90%

Speed of non-major decisions January 2016 to December 2017

Top performing SW authority	97%
Mid Devon	86%
Poorest performing SW authority	80%
England average	83%

Quality of non-major decision making April 2015 to March 2017 (% overturned appeal)

Top performing SW authority	0.5%
Mid Devon	0.5%
Poorest performing SW authority	1.5%
England average	1.2%

4.0 PLANNING ENFORCEMENT.

3.1 Activity within the enforcement part of the planning service by quarter is as follows:

Enforcement	2015/16				2016/17				2017/18			
	Q 1	Q 2	Q 3	Q 4	Q 1	Q 2	Q 3	Q 4	Q 1	Q 2	Q 3	Q 4
New enforcement cases registered	14	71	54	83	69	75	35	73	53	89	85	91
Enforcement cases closed	47	53	39	62	63	58	56	22	23	127	114	35
Committee authorisation sought	3	2	1	2	4	10	6	3	0	3	3	1
Planning contravention notices served	From Qu 2	9	5	10	5	3	2	1	3	2	2	3
Breach of condition notices served	0	1	0	0	0	0	0	1	0	0	0	2
Enforcement notices served	2	1	0	3	3	2	1	1	6	3	3	1
Section 215 notice									3	1	1	1

The total number of open enforcement cases:
 At time of writing this report (6th April 2018): 152
 9th March 2018: 151
 20th November 2017: 164
 Late September 2017: 160
 Early June 2017: 226.

This represents the number of alleged breaches of planning control being investigated at any one time.

3.2 A Local Enforcement Plan has been adopted and sets out how planning enforcement will be managed, how the implementation of planning permissions will be monitored, how alleged cases of unauthorised development will be investigated and action taken where it is appropriate to do so. It also sets out a prioritisation criteria for compliant investigation together with performance standards. These will be monitored from the 1st April 2018 and will form part of future performance reports.

5.0 FORWARD PLANNING.

4.1 The Forward Planning team continues to prepare for the Local Plan Review examination and associated tasks following the submission of the plan at the end of March 2017. An independent review of the Sustainability Assessment has taken place and at the time of writing this report the consultation on the updated Sustainability Assessment is due to conclude shortly (11th April 2018). Consultation

responses will then be summarised and forwarded to the Planning Inspectorate. The Inspectorate has not yet set a date for the plan's examination hearings.

- 4.2 Work also continues on the Greater Exeter Strategic Plan and a first stage of public consultation on the vision and scope of the plan was held between 27th February and 10th April 2017. A call for sites was also undertaken in connection with this plan. The evidence base to support the plan is currently being produced. The strategic plan work will continue to consider strategy options and growth areas with site assessments contributing to formulating proposed strategic allocations. A draft plan is due to be considered at committee meetings of Mid Devon, Exeter City, East Devon and Teignbridge Councils before public consultation.
- 4.3 An updated Local Development Scheme has been prepared, setting out the timescale for the preparation of both the Local Plan Review and the Greater Exeter Strategic Plan. It is due to be considered at the meeting of Cabinet on 10th May 2018.
- 4.4 During 2017/18 the service

6.0 BUILDING CONTROL.

- 6.1 Building Control performance in the assessment of full plans applications was met for this quarter (99%), as was also that for plan checking within 3 weeks (97%). Both measures have a target of 95%.
- 6.2 NMD Building Control, the partnership service with North Devon Council went live at the beginning of April 2017. The service is now being operated out of Tiverton and South Molton. A joint committee oversees the delivery of the functions of the partnership service.

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List of Background Papers:

PS1 and PS2 returns
DCLG Planning performance and the planning guarantee –Government response to consultation. June 2013
HM Treasury 'Fixing the foundations – creating a more prosperous nation' July 2015
Improving Planning Performance: Criteria for Designation, DCLG November 2016

Circulation of the Report:

Cllr Richard Chesterton
Members of Planning Committee