

# 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, 5 September 2018 at 2.15 pm

A special meeting of the Committee will take place on Wednesday, 19 September 2018 at 2.15 pm in the Phoenix Chamber, Phoenix House, Tiverton.

#### **STEPHEN WALFORD**

Chief Executive  
28 August 2018

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

## A G E N D A

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

- 1 **APOLOGIES AND SUBSTITUTE MEMBERS**  
To receive any apologies for absence and notices of appointment of substitute.
- 2 **PUBLIC QUESTION TIME**  
To receive any questions relating to items on the Agenda from members of the public and replies thereto.  
  
Note: A maximum of 30 minutes is allowed for this item.
- 3 **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 3 - 12*)  
Members to consider whether to approve the minutes as a correct record of the meeting held on 8 August 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 13 - 100*)  
To consider the planning applications contained in the list.
- 8      **MAJOR APPLICATIONS WITH NO DECISION** (*Pages 101 - 104*)  
List attached for consideration of major applications and potential site visits.
- 9      **APPEAL DECISIONS** (*Pages 105 - 106*)  
To receive for information a list of recent appeal decisions.

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

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

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

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

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

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Tel: 01884 234229

Fax:

E-Mail: [sgabriel@middevon.gov.uk](mailto:sgabriel@middevon.gov.uk)

Public Wi-Fi is available in all meeting rooms.

## MID DEVON DISTRICT COUNCIL

**MINUTES** of a **MEETING** of the **PLANNING COMMITTEE** held on 8 August 2018 at 2.15 pm

### **Present**

#### **Councillors**

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

#### **Also Present:**

Mr I Sorenson (Devon County Council -  
Highways Authority)

### **Apologies**

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

Mrs G Doe

#### **Also Present**

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

Mrs J B Binks and C J Eginton

### **Present**

#### **Officers:**

Kathryn Tebbey (Group Manager for Legal  
Services and Monitoring Officer), David  
Green (Group Manager for Development),  
Simon Trafford (Area Team Leader) and  
Sally Gabriel (Member Services Manager)

## 36 **APOLOGIES AND SUBSTITUTE MEMBERS (00-01-40)**

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

## 37 **PUBLIC QUESTION TIME (00-02-05)**

Mrs Bell referring to item 1 on the Plans List (Uplowman Road, Tiverton) stated: I refer to the Barratt's application. On 11<sup>th</sup> July, this Committee deferred its decision so that three issues could be re-considered, one of which was the re-positioning of the new turning point for Uplowman Road which is due to be closed to through traffic.

A new drawing submitted by Barratt's shows that the turning point has been re-positioned near to the end of the road closure. Also, the driveway previously planned to be located directly opposite an existing driveway has also been moved slightly eastwards and now avoids conflict.

We thank Barratt's for this new and safer arrangement.

We have not however, seen the equally important re-consideration of a re-arrangement of the new cul-de-sac that would save a substantial length of historic Devon Bank which is a significant habitat of Dormice, hares and a busy nesting site for a variety of birds each Springtime.

We believe that a re-arrangement of the cul-de-sac properties will serve both Barratt's interests and that of local residents.

Over 40 metres of Devon Bank will be saved, the local character and amenity of this area will be preserved and road safety in the vicinity of this new cul-de-sac will be improved. We believe this section of Devon Bank was shown to be intact on the outline plans which you approved.

Mr Cook will offer one alternative view of how the cul-de-sac could be re-designed to achieve our two remaining aims as well as serve the developers' objective.

If the Devon Bank was retained both wildlife and residents would benefit, and most importantly for Barrett's, provides a better ambience for the promoting and selling of the new properties.

On behalf of residents will this Committee please support our request via your powers to use Conditions and thus, achieve the two remaining and we think very important aims.

Mr Cook referring to item 1 on the Plans List (Uplowman Road, Tiverton) stated: I refer you to the Barratt application and two of the three items that, on 11<sup>th</sup> July, this Committee deferred for re-consideration by the Developer.

The two items are:

- loss of so much Devon Bank
- and re-positioning of the Barratt show homes.

The latest plans still show a complete loss of the existing historic Devon Bank in this location and, the varied styles of Barratt show homes still have driveway accesses directly onto Uplowman Road to be used by show home visitors.

These driveways and the pedestrian pathways to each house are separated by a new small mound with a hedge on top.

We asked for all the new cul-de-sac properties to be built behind the existing bank so as to preserve the historic bank, preserve and respect local character and amenity and lessen the impact of the sales activity on existing residents including improving local road safety.

We are told by Planning that Barratts are unwilling to re-design this small area as it is likely to result in the loss, to them, of a house in this cul-de-sac.

We disagree and offer one possible solution which we now place before you.

Layout Diagram 1 is Barratt's current plan.

As you can see, the old bank has gone and there are four show homes numbered 168- 171 with vehicle accesses directly onto the re-aligned section of Uplowman Road.

This road section will be used by residents and others requiring access eastwards of the cul-de-sac, as well as the residents of the cul-de-sac.

This has to be an unnecessary safety issue for local road users.

Referring to Diagram 2,

Much of the original bank is now preserved and all the cul-de-sac properties are well within a more regularised area each with plots that are better suited to garden use and not awkwardly shaped as some are in Diagram 1.

There are still eight properties here, five of which have garages as required by Barratts.

Such a layout would serve Barratt's needs and achieve all we aim for,

- save much of the historic bank,
- respect existing local character and amenity and,
- allay our traffic safety concerns.

On behalf of residents will this Committee please support our aims and assert your influence via Conditions to achieve them.

Dr Bell referring to item 1 on the Plans List (Uplowman Road, Tiverton) stated:  
We draw this Committee's attention to inaccuracies in the Officers' published report to this Committee relating to the Applicant's responses to the matters deferred by you on 11<sup>th</sup> July.

In Paragraph 2.4 – this should refer to house number 18 and not 16 which is a very different location.

Paragraph 2.9 - states that show home parking will be relocated to driveways of dwellings that will be constructed elsewhere in the development. This is not so, and Mr Green can confirm this, sales staff and visitor parking is to be on the driveways of the show houses still fronting Uplowman Road with access to the show houses via one of their garages requiring visitors to walk along the road for access.

Paragraph 2.10 - states that residents have been consulted as to the location of the show homes and associated parking and that we are now satisfied and have no objection as regards show home parking.

This is not the case, -we are not satisfied and we still object.

The only consultation we had was on 16<sup>th</sup> July and concerned only the location of the turning head and moving house plot 175 eastwards to which we did respond positively.

We are, therefore, still facing 6 years of house sales activity directly onto a vulnerable section of Uplowman Roadway and our objections remain.

Paragraph 2.7 referring to the cul-de-sac: this states that at Outline Planning: 'it was agreed that a significant length of the hedgebank would be lost'.

The approved Outline plan referred to in the report is just a line drawing of the road structure without any indication of the Devon banks on either side of the road; however, the associated Outline Hedgerow plan actually showed the retention of much of the Devon Bank so we were unaware that the bank was at risk. If we had known this to be the case, we would have objected strenuously against this at the time.

We ask the Committee to note and consider our comments in your deliberations and we ask the Planning Officers if they will address these issues and correct and clarify them for both this Committee and the Residents.

The Chairman indicated that answers would be provided to the above during the debate.

Cllr Mrs J B Binks (Ward Member for Sandford and Creedy) referring to Item 8 on the agenda (Major Applications) explained that last Friday, an article in the Crediton Courier had stated that the Creedy Bridge and Higher Road applications were both due to be determined by the Planning Committee at its meeting on 8 August. She asked what the official rebuttal to this statement was. She asked the Chairman if she could explain what new conditions were in the NPPF which had brought about the deferral and whether any other pending applications would be likely to be deferred because of the updated NPPF.

The Chairman stated the Creedy Bridge application had always been due to be determined on the 15<sup>th</sup> August, but had now been deferred, further guidance with regard to the impact of the updated NPPF was still awaited; a number of applications had been deferred.

The Group Manager for Development explained that there was an element within the updated NPPF which referred to calculations with regard to the 5 year land supply; officers were currently assessing and analysing parts of the NPPF document in relation to this. Any rebuttal to the statement made in the Crediton Courier would come from the Chief Executive.

#### **38 DECLARATION OF INTERESTS UNDER THE CODE OF CONDUCT (00-16-31)**

Members were reminded of the need to declare any interests when appropriate.

#### **39 MINUTES OF THE PREVIOUS MEETING (00-16-43)**

Subject to an amendment to Minute 30 (Enforcement List) with the addition of (iii) in the notes to state that "Cllr C J Eginton spoke as Ward Member", the minutes of the meeting held on 11 July 2018 were approved as a correct record and signed by the Chairman.

#### **40 CHAIRMAN'S ANNOUNCEMENTS (00-18-46)**

The Chairman reminded Members that the special meeting of the Committee arranged for the Wednesday 15 August 2018 had been postponed, the reasons for this had been discussed earlier in the meeting.

#### **41 DEFERRALS FROM THE PLANS LIST (00-19-12)**

The Chairman informed the meeting that Item 3 on the Plans List – the erection of 2 dwellings, alterations to existing access and associated works at land west of Elmdene, Hemyock had been deferred to a future meeting.

## 42 THE PLANS LIST (00-20-09)

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

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

(a) No 1 on the Plans *List (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 298618 113487, Uplowman Road, Tiverton)*

The Committee had before it a report of the Head of Planning, Economy and Regeneration providing an update on negotiations associated with the application that had previously been considered by the Planning Committee on 11 July 2018 where Members had been minded to approve the application but had requested further consideration of the following issues:

- The possible repositioning of the turning head
- The detrimental impact on the Devon Bank and whether this could be lessened
- Repositioning of the show homes and associated parking to allay traffic concerns.

The Group Manager for Development outlined the contents of the report highlighting the reasons for the additional report and the consultation process that had taken place with local residents in relation to the movement of the turning head following the previous meeting. He explained that Members could not consider the additional plans received from Mr Cook as the committee could only consider the plans received from the applicant.

Referring to questions posed in public question time, the issue raised by Mrs Bell with regard to the turning head and the Devon bank would be covered in his presentation. With regard to the Devon bank highlighted within Mr Cook's questions this had been considered and approved as part of the outline application for the development. Dr Bell had highlighted an error with regard to the house numbers, Dr Bell was correct, this was an error. With regard to the consultation process, the report highlighted the consultation that had taken place.

The officer then outlined the application by way of presentation, highlighting the application site, Members viewed photomontages and photographs from various aspects of the site and considered the revised plans that had been produced to try to address the concerns of the local residents. The outline application plans that had been approved were also presented which showed the removal of the Devon Bank.

Consideration was given to:

- Whether the updated NPPF had been considered with regard to the application
- The height of the proposed new banks, the ground levels behind the bank and the planting scheme
- The lighting scheme for the development
- The concerns of the objector with regard to the turning head, the removal of the Devon Bank, the mixture of properties along Uplowman Road, the impact of the removal of the Devon Bank on the historic habitat and the disturbance associated with the sales activity
- The views of the agent with regard to the negotiations that had taken place to try to mitigate the residents concerns, the introduction of new banking, the positioning of the sales offices and the fact that the visitors parking had been relocated.
- The views of the Ward Members with regard to the loss of the Devon Bank and the time it would take to establish a new bank
- The narrowness of the current road
- The need to look at the whole development
- Maintenance issues and landscaping/planting schemes.
- Whether the applicant might, having heard the concerns, voluntarily look again at the positioning of the show homes and the amount of Devon Bank removal should there be a re-design of any part of the application scheme in the future.

**RESOLVED** that planning permission be granted subject to conditions as recommended by the Head of Planning, Economy and Regeneration with an amendment to Condition 5 to state: Notwithstanding the provisions of Article 3 of The Town and Country Planning (General Permitted Development) Order 1995 as amended by the Town and Country Planning (General Permitted Development) Amendment (No.2) Order 2008 (or any Order revoking and re-enacting that Order with or without modification) no development of the types referred to in Classes A, B and C of Part 1 relating to those properties with frontage on to Lowman Avenue shall be undertaken within the application site/dwelling curtilage without the Local Planning Authority first granting planning permission.

**REASON** to safeguard the character and appearance and design aspirations of Lowman Avenue in recognition of its significance as the main route through the development in accordance with policies DM2 and DM14 of the Adopted Mid Devon Local Plan (Part 3).

And an additional condition stating that: The development hereby permitted shall take place in accordance with the approved phasing details (Drawing No. 7588-001A).

**REASON** :To ensure the appropriate ordering of the site in the interests of proper planning”.

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

Notes:

- i) Cllr R L Stanley declared a personal interest as the Cabinet Member for Housing and a Director of 3 Rivers Development Limited and chose to leave the meeting during the discussion and the vote;
- ii) Cllr D J Knowles declared a personal interest as some of the objectors were known to him;
- iii) Cllrs: Mrs H Bainbridge, Mrs C Collis, Mrs F J Colthorpe, R Evans, P J Heal, D J Knowles, F W Letch, B A Moore, R F Radford and J D Squire made declarations in accordance with the Protocol of Good Practice for Councillors dealing in Planning Matters as they had all received correspondence regarding this application;
- iv) Dr Bell spoke on behalf of the objectors;
- v) Mr Cattermole (Agent) spoke;
- vi) Cllrs C R Slade and D J Knowles spoke as Ward Members;
- vii) Cllrs Mrs C A Collis and D J Knowles requested that their vote against the decision be recorded;
- viii) The following late information was reported, the amendment to Condition 5 and an additional condition.

(b) No 2 on the Plans *List ( 18/00705/MARM - Reserved matters for the erection of 28 dwellings and up to 90 sq.m of A1 retail floorspace, including incidental open space and car parking, following outline approval 17/00173/MOUT) – land at NGR 287483 106365 (White Cross), Cheriton Fitzpaine.*

The Area Team Leader outlined the contents of the report highlighting by way of presentation the site location plan, the access which included access to the proposed shop (approved at the outline stage), the pedestrian link to the school, proposed site plan, parking arrangements site sections and proposed street scenes, the location of the shop, areas of open space, plans identifying proposed materials to be used and house type. Members also viewed photographs from various aspects of the site.

Consideration was given to:

- The variation to the terms of the S106 agreement and the Housing Options Manager's view on the appropriate mix of dwellings required and the local need
- Maintenance of the hedgerows and the open space

**RESOLVED** that:

- a) 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 F Radford)

- b) A Deed of Variation to the terms of the Section 106 agreement be agreed pursuant to LPA ref: 17/00173/MOUT to allow for variation of the affordable housing provision to include the provision of a financial contribution of £25,000 for off-site delivery to compensate for a reduction of the units on site from 8 to 7.

(Proposed by the Vice Chairman)

Notes:

- i) Cllr Mrs F J Colthorpe declared a personal interest as she had as Ward Member given a donation to the shop (since the outline application was considered) and chose to leave the meeting during the discussion thereon; **(the Vice Chairman took the Chair);**
- ii) Cllr R L Stanley declared a personal interest as the Cabinet Member for Housing and chose to leave the meeting during the discussion thereon;
- (c) No 3 on the Plans *List* **(Erection of 2 dwellings, alterations to existing access and associated works – land west of Elmdene, Hemyock.**

This application had been deferred as advised earlier in the meeting.

#### 43 MAJOR APPLICATIONS WITH NO DECISION (1-50-21)

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

It was **AGREED** that:

Application 18/00964/MOUT – (Moor Lane, Westleigh) come before committee for determination if minded to approve and if that was the case, a site visit take place.

Application 18/01091/MOUT – West of Fishers Way, Pethertons, Halberton remain delegated.

Application 18/01036/MFUL – Quarterly Farm, Shillingford remain delegated

Application 18/00915/MFUL – Lidl Foodstore, Tiverton – be determined by the Planning Committee but that no site visit was required

Application 18/00978/MFUL – detention basins, outfall swale drainage – West Manley Lane, Tiverton remain delegated.

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

(The meeting ended at 4.13 pm)

**CHAIRMAN**

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## PLANNING COMMITTEE AGENDA - 5th September 2018

### Applications of a non-delegated nature

<u>Item No.</u>	<u>Description</u>
01.	<p>18/00175/MOUT - Outline for the erection of up to 125 dwellings with public open space and associated infrastructure at Land at NGR 303288 110467, Adj Meadow Park, Silver Street.</p> <p><b>RECOMMENDATION</b> Grant permission subject to conditions and the signing of a S106 agreement.</p>
02.	<p>18/00177/FULL - Creation of new access for residential development of up to 125 dwellings at Land at NGR 303174 110748, Meadow Park, Willand.</p> <p><b>RECOMMENDATION</b> Grant permission subject to conditions.</p>
03.	<p>18/00474/FULL - Erection of 2 dwellings, alterations to existing access, and associated works at Land West of Elmdene, Hemyock, Cullompton.</p> <p><b>RECOMMENDATION</b> Grant permission subject to conditions.</p>
04.	<p>18/00657/FULL - `Retention of change of use of an existing agricultural building to office with parking at Bradford Farm, Upplowman, Tiverton.</p> <p><b>RECOMMENDATION</b> Grant permission subject to conditions.</p>
05.	<p>18/00745/FULL - Erection of dwelling following demolition of existing shed at Land and Buildings at NGR 295495 115092 (Adjacent to Lurley Cottage), Lurley, Devon.</p> <p><b>RECOMMENDATION</b> Refuse permission.</p>

Application No. 18/00175/MOUT

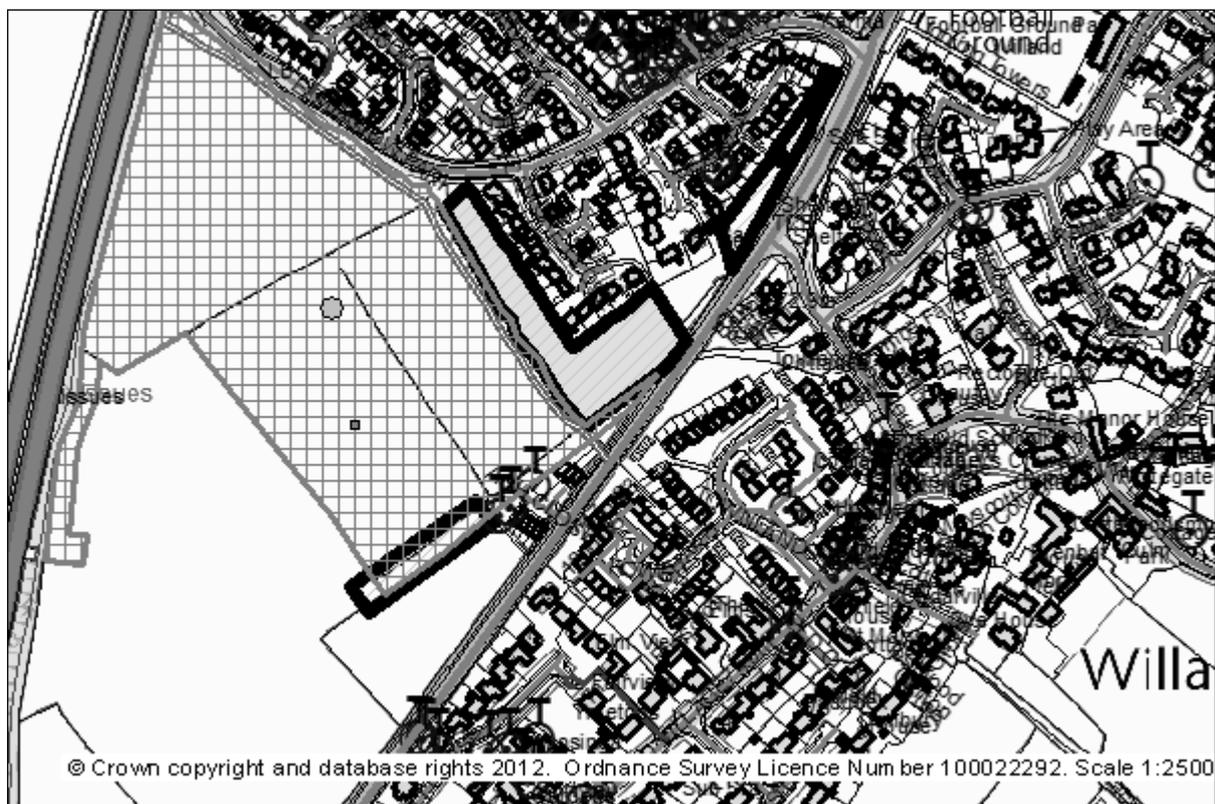
Grid Ref: 303288 : 110467

Applicant: Gallagher Estates Ltd, Mr M Webber & Ms S Albright

Location: Land at NGR 303288 110467  
Adj Meadow Park  
Silver Street  
Willand

Proposal: Outline for the erection of up to 125 dwellings with public open space and associated infrastructure

Date Valid: 26th January 2018



## **APPLICATION NO: 18/00175/MOUT**

### **RECOMMENDATION**

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

### **PROPOSED DEVELOPMENT**

This is an outline application for the erection of up to 125 dwellings with public open space and associated infrastructure, with all matters reserved for future consideration. The access proposals are subject to a separate application appearing later on the agenda.

The site is located to the west of Silver Street, which is the main road running through Willand. Along the north eastern boundary of the site is Meadow Park, and it is the northern part of the site which is proposed for allocation for residential development of 42 dwellings in the Local Plan Review. The M5 motorway forms the western boundary of the site, with open fields to the south. The site is relatively flat and contains a number of existing hedgerows and mature trees.

The indicative layout plan submitted with the application indicates pedestrian access from Silver Street via an existing footpath, and vehicular access from Meadow Park. A noise bund is indicated along the western boundary, together with provision for Local Equipped Area of Play and SUD's attenuation.

Members will recall that an appeal at the site for 259 dwellings was dismissed in November 2017. The appeal decision will be discussed more fully later in this report.

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

- Archaeological assessment
- Heritage statement
- DAS
- Environmental Noise assessment
- Flood risk assessment
- Utilities assessment
- Geo-environmental assessment
- Transport assessment
- Travel plan
- Ecological assessment
- Agricultural land assessment
- Air quality report
- LVIA
- Tree Survey
- Carbon Reduction statement
- Economic benefits information
- Planning statement
- Statement of Community Involvement
- Waste Audit statement

### **RELEVANT PLANNING HISTORY**

88/00057/FULL - REFUSE date 6th April 1988  
Erection of 126 houses, bungalows, garages, drainage and construction of vehicular access

16/00284/SCR - CLOSED date 1st March 2016

Request for Screening Opinion in respect of proposed residential development

16/01811/MOUT - REFUSE date 17th March 2017

Outline for the erection of up to 259 dwellings, with public open space, landscaping and associated infrastructure (APPEAL DISMISSED 03.11.17)

### **OTHER HISTORY**

18/00177/FULL – PCO

Creation of new access for residential development of up to 125 dwellings – under consideration later on this agenda

### **DEVELOPMENT PLAN POLICIES**

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

COR1 Sustainable communities

COR2 Local distinctiveness

COR3 Meeting housing needs

COR5 Climate change

COR8 Infrastructure provision

COR9 Access

COR10 Strategic transport networks

COR11 Flooding

COR12 Development focus

COR17 Villages

COR18 Countryside

#### **Allocations and Infrastructure DPD (Local Plan Part 2)**

AI/DE/3 Affordable housing site target

AL/IN/2 Development without CIL

AL/IN/3 Public open space

AL/IN/4 Green Infrastructure

AL/IN/5 Education provision

AL/CU/15 Cullompton air quality

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

DM1 Presumption in favour of sustainable development

DM2 High quality design

DM4 Waste management

DM6 Transport and air quality

DM7 Pollution

DM27 Development affecting heritage assets

DM28 Green infrastructure in major development

#### **Devon Waste Plan**

W4 Waste Prevention

#### **National Planning Policy Framework**

### **CONSULTATIONS**

**WILLAND PARISH COUNCIL** - 26th February 2018 - Willand Parish Council discussed this application at their meeting on 22 February and unanimously strongly object to it. The reasons and matters considered are set out in the following paragraphs.

## 1. Status and Designation of Site under current Policy.

1.1 In the Core Strategy adopted in 2007 and intended to be valid until 2026, Willand is designated as a village. In paragraph 1.10, following a table summarising housing and population growth between 1981 and 2001, it showed that Willand was third in the District for housing completions and population growth after Tiverton and Cullompton and before Crediton. It further stated that growth in rural areas had been considerable (particularly Willand, which has virtually doubled its population in that time). It should be noted that few facilities had been provided for the population in that time or since. Planned facilities attached to applications were subsequently dropped and the sites used for more housing. Community Infrastructure needs in a report by Devon County Council in 1970 identified a number of community infrastructure needs, one being a Health and Community Centre, and we still do not have one. There has been an increase in employment provision.

1.2 Villages COR 17 identifies Willand as a settlement with some local facilities and employment with access to public transport. It states that development will be limited to minor proposals within defined settlement limits. The application site is outside of the current settlement limit for the village, although on the edge, and is therefore Countryside under the Core Strategy.

1.3 Countryside COR 18 states that development outside the settlements defined, of which Willand is one, will be strictly controlled. The proposed development of up to 125 houses does not fall within any of the suggested appropriate criteria for development in the countryside. The application therefore should not be approved [see later regarding five-year land supply].

1.4 The Allocations and Infrastructure Development Plan Document adopted in January 2011 did not allocate any land within the Willand Settlement Limit for development other than to refer to approval of potential windfall sites.

1.5 Two sites were identified outside of the settlement limit for affordable housing if a proven need was identified for housing to meet emerging local (Willand) needs; AL/WI/1 - Willand Moor for 10 houses and AL/WI/2 - West of B3181 35 houses.

1.6 AL/WI/2 has had seven houses built on it and permission has recently been granted for a further 28 affordable houses to be built to complete the site although work has not yet commenced at the time of writing this response. This site is adjacent to the applicant site.

## 2. Status and Designation of Site under Local Plan Review 2013 - 2033

2.1 This plan has been submitted to an Inspector but it has yet to be approved. It is considered that it is still relevant to compare the current policies with the emerging proposed policies, particularly in relation to this application site where there is a consistent approach in policy from the current to the proposed plans.

2.2 Villages Policy S 13 identifies Willand as a rural settlement designated as a village suitable for limited development. Development will be limited to proposals within their defined settlement limits. Those allocations will be for:

- a) Small scale housing, employment, tourism and leisure;
- b) Services and facilities serving the locality; and
- c) Other limited development which enhances community vitality or meets a local social or economic need.

The applicant site is outside of the current settlement limit but under the plan the settlement limit is proposed to be extended to include part of this application site on which it is proposed to provide 42 houses. This is still a major development for a village under planning guidance.

2.3 Under paragraph 2.78 it states:

"Rural areas are expected to accommodate approximately 10% of the housing requirement for Mid Devon up to 2033. 330 dwellings have been allocated and are considered available, suitable and achievable, capable of coming forward within the first 10 years of the plan." These 330 houses are to be divided between the 22 settlements identified in the policy which equates to 15 dwellings per settlement. Willand has been designated to take 42 houses and therefore have been allocated 12.7% of the rural allocation when a proportionate amount would have been 4.5%. 35 houses have been approved (7 already built) under current policy AL/WI/2. The implications of this are dealt with later in this response.

2.4 Countryside Policy S 14 states that: "Development outside the settlements defined by Policies S10-S13 will preserve and where possible enhance the character, appearance and biodiversity of the countryside while promoting sustainable diversification of the rural economy."

The bulk of the proposed site for this application will still be outside of the proposed new settlement limit and should benefit from the protection of this policy.

2.5 Under paragraph 1.21 of the emerging plan it states: "The Local Plan Review replaces and supersedes the policies of the previous Local Plan that was adopted in three parts:....". There then follows a table showing all the proposed changes. In relation to Willand it shows:

"AL/WI/1 - Willand, Willand Moor - Deleted: Site has not come forward since allocation. Alternative allocation within the village in Local Plan Review."

"AL/WI/2 - Willand, West of B3181 - Replaced by: WI1 Land East of M5, Willand."

2.6 Rural Areas. Under paragraph 3.186 it states: "Twenty-one housing sites are allocated in rural areas and are considered achievable in principle, corresponding to rural settlement maps that accompany this document. Most housing allocations in rural areas are expected to deliver around 20 dwellings per hectare due to the low density character of existing village development, but in some cases a higher or lower density is justified."

The following table then gives the following information:

Parish/location - Willand; Policy - WI1; Site - Land east of M5; Gross Site Area (ha) - 2.9; Net Site Area (ha) - 1.74; Uncommitted Local Plan allocations - 42.

2.7 Policy WI1 - Land east of M5, Willand is set out fully together with the two supporting paragraphs:

A site of 2.9 hectares at land east of M5, Willand, is allocated for residential development subject to the following:

- a) 42 dwellings with 30% affordable housing;
- b) Provision of buffer zone and appropriate planting to mitigate noise from the adjacent motorway;
- c) Mitigation of any wildlife impact including protection of trees;
- d) Transport assessment of capacity at the junction of Silver Street and Meadow Park; and
- e) Retention and enhancement of the public right of way.

3.236 The site is located to the south of Willand, adjacent to modern housing to the north and the M5 to the west. Noise from the M5 should be mitigated by a buffer zone and planting along the boundary to ensure residential amenity is not adversely affected. The site has a number of mature trees on the eastern boundary and established woodland along the north

east boundary. Mitigation measures should be taken to ensure there are no adverse impacts on any of the surrounding biodiversity.

3.237 A Transport Assessment of the capacity of the junction of Silver Street and Meadow Park may result in a different number of dwellings from the number allocated. The current public footpath across the northern boundary of the site should be retained and enhanced.

### 3. Lack of 5 Year Land Supply and implications of Inspector's Appeal Findings.

3.1 It is accepted that Mid Devon District Council does not have a 5 year current housing land supply. This has resulted in a number of speculative planning applications from developers which are contrary to existing or emerging plan policies. The developers have cited the lack of supply and therefore indicated that the relevant provisions of paragraph 14 of the NPPF should take effect.

At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking.

For plan-making this means that:

- local planning authorities should positively seek opportunities to meet the development needs of their area;
- Local Plans should meet objectively assessed needs, with sufficient flexibility to adapt to rapid change, unless:
  - any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
  - specific policies in this Framework indicate development should be restricted.

For decision-taking this means: 1

- approving development proposals that accord with the development plan without delay; and
- where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:
  - any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
  - specific policies in this Framework indicate development should be restricted.

3.2 Interpretations of the implications of this guidance are varying with respective sites and application detail. It must be recognised that Inspectors are individuals and may interpret information and circumstances differently. It should also be noted that the situation surrounding the 5 year land supply argument is evolving with Government Ministers considering new powers to deal with developers who have planning permission on sites for some 420,000+ homes which they are not building or are building at a slower rate that they were a few years ago.

3.3 The most relevant findings to this current application is the report of Planning Inspector Mr H Baugh-Jones BA(Hons) DipLA MA CMLI in relation to Appeal Decision [APP/Y1138/W/17/3172380] reference to application 16/01811/MOUT for 259 houses on this and an adjoining package of land. Whilst recognising the failure to have a 5 year land supply and the fact that the emerging local plan had not been approved he did make observations which supported the relevance of current and emerging policy and the weight he gave to them.

3.4 The comments referred to at 3.3 above are [Underlining is that of the consultee for ease of reference]:

- (a) 4. It is common ground between the parties that the Council cannot currently demonstrate a 5 year supply of deliverable housing sites (the five-year housing land supply (HLS)) and that having regard to paragraph 49 of the National Planning Policy Framework (the Framework), the tilted balance contained within Framework Paragraph 14 therefore applies.
- (b) 7. The policies that feature in the Council's reasons for refusal of the application and which are therefore relevant to the determination of this appeal are: CS COR 1 (sustainable communities); COR 9 (access); COR 12 (development focus) and DMP policy DM1 (sustainable development).
- (c) 10. Although not included in the putative reasons for refusal, CS policies COR 17 and COR 18 are relevant and have been referred to by both parties. COR 17 designates a number of rural settlements as 'Villages' wherein development will be limited to minor proposals within their defined settlement limits and to allocations for: affordable housing meeting a local need; small scale employment and tourism; services and facilities serving the locality; and other very limited development which enhances community vitality or meets a local social or economic need. Policy COR 18 seeks to strictly control development in the countryside and sets out a number of criteria against which development will be permitted in these areas. The broad objective of the policy is to enhance the character, appearance and biodiversity of the countryside by focussing growth in the market towns to reinforce their social and economic role and enhance self-sufficiency. Based on all that has been put to me, I am satisfied that these two policies are relevant to my considerations in this appeal and I have therefore taken them into account in reaching my decision.
- (d) 13. In my view, it is reasonable to conclude that there is a vast gulf between the scale of development proposed and what the development plan envisages for villages such as Willand as expressed in CS policy COR 17. I therefore consider the proposal to be in conflict with this policy.
- (e) 14. The proposal would provide a substantial development of market housing and although there would also be an affordable housing element, this would be as a percentage of the total number of dwellings and there is no evidence before me that it would relate to an identified local need. Accordingly, the appeal scheme would not meet any of the criteria set out in policy COR 18 and therefore conflicts with it.
- (f) 16. As part of its Local Plan review, the Council has allocated land for development on part of the appeal site, which demonstrates a clear recognition that in order to meet its aspirations for housing growth, not all development can take place within the existing built confines of settlements. Given the current stage of the Plan's preparation I do not consider that its policies can be given any more than limited weight in this appeal. However, the general approach of allocating a site to accommodate a modest number of dwellings in Willand accords with the broad principles of the CS and the Framework in seeking to ensure the level of development is adequately supported by infrastructure and to support its health, social and cultural well-being.
- (g) 17. The proposal would very substantially increase the size of Willand. Within the village, there are a number of dispersed services and facilities. However, taking into account the existing size of the settlement, they represent a somewhat basic and modest level of provision.
- (h) 19. Although the appeal scheme proposes to contribute financially towards education and healthcare facilities in Willand, there would be no corresponding increase in the number of other services and facilities. I recognise that the existing businesses would not necessarily be harmed economically but the scale of the development would be at odds with the Council's strategy for locating the majority of new housing in and around the larger settlements in Mid Devon. For these reasons, the proposal conflicts with CS policies COR 1 and COR 12.
- (i) 51. CS policies COR 17 and COR 18 are contributing to a restriction on bringing forward development in the District in line with the Framework requirement to boost significantly the supply of housing. Accordingly, the appeal scheme's conflict with these policies is limited.

(j) 53. However, the emerging Local Plan Review envisages 42 dwellings including 30% affordable housing for Willand. This is very substantially lower than both market and affordable housing growth proposed in this appeal. Even if I were to accept that the need for housing could be greater than planned for in the CS in order to reflect the Full Objectively Assessed Need for Mid Devon, I am not persuaded that a development on the scale proposed would be likely to reflect a requirement to meet identified local needs for either market or affordable housing. Furthermore, I have not been made aware of a pressing need for affordable housing in Willand such that the scale of housing proposed should override the provisions in the development plan.

(k) 54. Moreover, all of this must be considered in the wider context of creating a mixed and balanced community as promoted by the Framework. I am not persuaded that the proposal would make satisfactory provision for the shops and services that would be necessary to meet the growing needs of a village resulting from such rapid and substantial expansion. The influx of new households on the scale proposed would place additional pressure on the overall limited range of services and facilities in the village and whilst I accept that it is not necessary for the proposed development to be self-contained, I consider it would unbalance the settlement and undermine social cohesion. I give significant weight to the appeal scheme's conflict with the development plan and the Framework in this regard. This in turn limits the weight that I give to the appeal scheme's contribution to market and affordable housing.

(l) 55. Given that the Framework seeks to promote the vitality of our main urban areas, it seems to me that this chimes with the Council's development focus as expressed in CS policy COR 12. Insofar that CS Policies COR 1, COR 9, and DMP policy DM1 also seek to promote sustainable forms of development; I consider them to be in general conformity with the broad sustainable development objectives of the Framework. I therefore give significant weight to the appeal scheme's conflict with these development plan policies.

#### 4. Current Application Detail and local Observations.

4.1 The outline application is to build up to 125 houses on the site with public open space, landscaping and associated infrastructure. There is also a separate Full planning application in respect of the access to the dwellings from Meadow Park. It is questionable if it is practical or appropriate to deal with the access separate from the housing development as the access is relevant to the approval for the number of dwellings when the emerging plan Policy WI1 - Land east of M5, Willand requirements are taken into account, particularly with reference to transport assessment.

4.2.1 Under current plan policy AL/WI/2 35 affordable houses [7 already built] have been approved on an exception site. Under the emerging local plan that site allocation was to be replaced by a new site under emerging local plan policy for 42 dwellings - Policy WI1 - Land east of M5, Willand - an increase of only 7 houses. The Parish Council has been advised that the emerging local allocation will not be altered so in effect the village of Willand will be increased by 77 dwellings. The latest figures show that the latest number of households in Willand is 1,419 which includes an increase of 51 (3.7%) from the last census. This has come from windfall sites within the settlement limits and there has been little or no community infrastructure to support that increase. The increase of 77 houses amounts to a further 5.4% increase on the latest figures.

4.2.2 If the 125 are approved this will be another 83 households on top of the 42 planned. Add to that the 35 that have been approved on the exception site, Willand will expand by a further 160 households which amounts to an increase of 11.3%. It must be questioned if this is proportionate for an allocation to a village under existing or emerging local plan policy or even NPPF?

4.2.3 The latest figures for affordable housing need showed that Willand has a requirement of about 40 household units over the next five years - 35 are being provided on the exception site. The proposed 42 houses would have a 30% allocation for affordable housing = 12/13. This more than caters for the foreseeable needs of Willand. The proposal from the 125 application would give a 35% = 44 allocation of affordable houses which would make a total of 79 units, well in excess of the requirements of Willand.

4.2.4 In addition to this provision would be the cumulative provision of at least another 30 units of affordable housing on land off the Uffculme Road within a mile of the Willand boundary. There is also development of 600+ houses to the North of Cullompton which will be a mix of Market and Affordable Housing.

4.3 Policy W11 - Land east of M5, Willand allocates a land area of 2.9 hectares for the provision of 42 houses. There is no mention of public open space or equipped play areas. The application site is approximately 6.4 hectares. This is an increase of 3.5 hectares = 121% over planned allocated area. Instead of 42 houses it is proposed to have up to 125 an increase of 83 = 197.6% over planned housing. If one takes the 35 affordable houses also approved on a site which was to be replaced by the 42 there is an increase of over 281% of housing than was planned for under the emerging local plan. Other than offers of contributions to education and public open space no provision is being made to enhance the social cohesion or wellbeing of the community.

#### Noise

4.4.1 There are concerns as to noise from the M5 being above the accepted limits. Policy W11 (b) states that there should be "provision of buffer zone and appropriate planting to mitigate noise from the adjacent motorway." A noise bund and planting is proposed along the M5 boundary with planting but the number of houses proposed would not appear to permit the width of buffer zone which could be achieved with the planned 42 houses.

4.4.2 Work has been undertaken with regard to assessing potential noise on the site caused by traffic from the M5 and a detailed report submitted as part of the application. It is referred to in the Planning Statement where paragraph 5.82 states: "The site has been designed to maximise the reasonable protection from an acoustic barrier along the motorway boundary, and to utilise new buildings as a screen for those further removed from the motorway." Enhanced glazing and ventilation is discussed for these 'buffer properties' but it would appear that to open a window may not be an option. Although a matter for Reserved Matters, if outline consent is approved, it is asked if this is where the 'clusters' of affordable housing would be?

4.4.3 Paragraph 5.85 of the Planning Statement states: "In respect of noise levels in external amenity spaces, it has been concluded that noise levels in a number of gardens, particularly to the west sides of the site would fall above the usual criteria of acceptability. A 2m high fence close boarded fence to the southwest boundary and individual gardens elsewhere should ameliorate the situation to a certain degree. In some of these situations, however, it may be necessary to accept a level of noise which is marginally above the usual design guidelines. For the large majority of gardens across the site, however, the predicted noise levels will be comfortably below these criteria." Is it appropriate, acceptable or sustainable to allow a development which could have an adverse effect on the health and wellbeing of residents, either in their homes or on public or private amenity space through excessive noise levels?

4.4.4 The Parish Council have been advised that the timing and weather conditions present during when the measurements were taken for the report were rather favourable to the

findings and more overcast weather and a different wind direction would have given higher and less favourable readings.

#### Public Open Space

4.5.1 The concept plan can be misleading as it shows considerable green open space. This land lies low and does not drain well and holds considerable amounts of surface water. This is added to by water draining down from the B3181 into a ditch leading onto the site at the North East Corner. Unless drained properly the proposed play area will be unusable whenever the weather is wet. This could also be a problem with other areas. Retention of hedges, drainage ponds and the motorway bund will also reduce useable space for people and so the described area of public open space is overstated. Protection measures for the hedges and trees during construction are outlined in reports with the application. If the application is approved then conditions or protection orders need to be put in place to ensure retention and protection after the completion of the site and well into the future.

4.5.2 There is no provision for any allotments. Willand has a site for allotments which has a waiting list and even with splitting the larger allotments into smaller units has not met the need. A commissioned study of public open space has shown that Willand has a shortfall of 64% for the size of population and so for this development to 'buy' provision elsewhere in the village is not an option. Contribution could be made to improving what is already there but it will not make additional space available.

4.5.3 There is a public footpath running along the Northern edge of the proposed site which is adjacent to protected woodland for part of its length. This is the only 'non-tarmacadam' surfaced footpath left in the village with woodland/hedge on one side and open fields on the other. Policy WI1 e) Retention and enhancement of the public right of way is required. The suggested 10m wide path area with potentially another 10m of private amenity space before any buildings will leave room for conflict with potential trespass by persons or dogs. If the application is approved then enforceable conditions need to be in place to maintain the public footpath access as it is suggested by the developer that this site may take four years to be completed.

#### Transport

4.6.1 Policy WI1 d) Transport assessment of capacity at the junction of Silver Street and Meadow Park. A transport assessment has been carried out as a desk bound and computer model in the main. It cannot be seen that any practical account has been taken of the effect of school drop off and collection or the on-street parking during evenings or weekends. No account seems to have been taken of the on-road parking and traffic movement through the junction when Willand Rovers have home games. No account has been taken of the extra traffic past the junction on the B3181 when the M5 or other roads are closed and this is used as a diversion route. An event which seems to be happening with greater frequency.

4.6.2 The impression is given that the development will provide pedestrian access to Silver Street and Meadow Park but it already exists for the public footpath. The pavement on the B3181 approaching the Old Village junction is only 1.4m wide when the hedge is cut back properly when it needs to be widened to at least 2m to cater for increased pedestrian traffic and ensure pedestrian safety from passing traffic close to the kerb edge.

4.6.3 The DCC Highways advice is not available at the time of submission of this response and so further comment may be submitted for consideration when it is seen.

#### 5. Benefits and Harm

5.1.1 There would be economic benefits:

- (a) in the short term during construction with expenditure on jobs and materials.
- (b) £174,000 additional Council Tax revenue per annum for Mid Devon District Council;
- (c) £42,560 total New Homes Bonus payment to Mid Devon District Council over 4 years.
- (d) Increased expenditure in local business.
- (e) Monetary contributions to some local facilities.

These in the main summarise economic benefits to Devon and Mid Devon with limited benefit to Willand Village and its community.

5.1.2 The harm to the village can be identified as direct adverse impact or harm through cumulative effect.

(a) The increased population will adversely affect the community cohesion of the village by the larger population being susceptible to isolation and difficulties in integration.

(b) The extra pressure placed on facilities within the village:

(i) The school will be taken over capacity and there is little room for more class rooms or expansion of the building without reducing already inadequate hall, dining and outdoor play space;

(ii) The pre-school is at capacity and turning children away. DCC say that capacity can be found in the private sector BUT local experience is that there is a demand on the current facility which is looking for nearby premises to expand;

(iii) The Church and Church Hall have no room for expansion and are at capacity;

(iv) The Village Hall is in demand at peak times and is having to turn away bookings from local groups;

(v) The Youth Club, Brownies, Cubs, Guides and Scouts all have difficulties in coping with demand;

(vi) The Doctors Surgery operates only part time and is small and does not conform to the latest NHS requirements;

(vii) On street parking and other traffic issues have an adverse effect at times and this will be added to by such a major unplanned development.

## 6. Possible Reasons to Support Refusal of Application.

6.1 The site is outside of the settlement area of Willand and is in Countryside therefore contrary to current core strategy (CS) policy COR 18. Development outside of defined settlements should be strictly controlled.

6.2 If the settlement limit were to be extended to include the application site under CS Policy COR 17 it is a major development and not a minor proposal as covered by the policy. It is not required to meet a local affordable housing need as that has been met by recent approval of an exception site. It would not enhance the community vitality or meet any proven social or economic need.

6.3 The proposed development fails elements of CS policies COR 1 - Sustainable Communities and COR 12 - Development Focus. It would conflict with Development Management Policy (DMP) DM 1 - Sustainable Development Principles. Regardless of the proposals put forward regarding travel planning and the use of public transport people will use their cars to access the wider community and facilities and so there could be conflict with elements of CS Policy COR 9 - Access.

6.4 There are consistent similarities of policy contained in the emerging Local Plan Review 2013 - 2033. This plan may not yet attract great weight being attached to its policies but it does show a consistence of policy conformity with the NPPF. In the recent appeal report by the Inspector, in referring to current policy, in paragraph 55 he stated: "I consider them to be in general conformity with the broad sustainable development objectives of the Framework. I

therefore give significant weight to the appeal scheme's conflict with these development plan policies."

6.5 Policy S 1 Sustainable Development Priorities - a) places the development focus on the three main towns. Policy S 2 Amount and Distribution of Development states that development will be concentrated on the three main towns and that the Rural Areas should contribute 786 dwellings. There are 22 designated villages and so Willand should provide 36 of these over the plan period to be proportionate. Willand in fact was allocated 42 and 35 affordable have since been approved (7 built) giving a total of 77 houses - 114% over proportionate distribution of housing commitments set out in the emerging plan.

6.6 Policy S 5 will not be met regarding Allotments or Recreation Space. Space is not available offsite to provide the policy requirements.

6.7 Policy S 8 Infrastructure. None of the utilities

**HIGHWAY AUTHORITY** - 19th April 2018 - The Highway Authority has viewed the site and its access subject to separate application

18/0177/FULL. The Highway Authority has considered the transport assessment and is satisfied with its contents and the figures and conclusions. The Highway Authority have taken into consideration the parish concerns over the survey data being outside school operating dates and the increase in activity around pick up and drop off. The proposed development will generate 28 movements in the Am peak turning left and less in the PM this represents 6% of the traffic along silver street in the Am peak in august and will be less than 6% with the anticipated increase in school traffic but this is likely to be a negligible number. The Highway Authority have previously accepted the survey data in an earlier application and it would be unreasonable not to do so for this application. More over accident statistics show 3 slight accidents in the vicinity of the school none are related to each other and no pattern of causation gives rise to a specific reason. Notwithstanding the Highway Authority is investigating further.

The parish has raised the policy requirement for the improvement of the footways to the village centre, The Highway Authority would concur that the footway width could benefit from widening to a minimum of 2.0m throughout, but this will require land outside of the control of the Highway Authority but I am led to believe this is in the control of the District council. The vegetation adjacent to the footway overgrows the existing footway and should be cleared to the edge of footway and to a minimum height of 2.4m and maintained as such as a bear minimum. To widen the path may require the removal of hedge and trees. Utilisation of the off road track to the east of the site should be made and it should forma footway / cycle way with access to the proposed development.

The application should be subject to an appropriate legal agreement under the Town and Country planning act to deliver the Travel Plan, a bus contribution of £100,000.00 towards the improvement of the number 1 service to be phased at £20,000.00 per annum over 5 years with initial trigger being on the occupation of the 25th Dwelling, Improvements to the footways to village centre along Silver street.

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

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

2. The development hereby approved shall not be carried out otherwise than in accordance with a phasing programme which shall previously have been submitted to and approved by the Local Planning Authority in writing.

REASON: To ensure the proper development of the site.

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

REASON: To protect water quality and minimise flood risk in accordance with Flood Management Act.

The occupation of any dwelling in an agreed phase of the development shall not take place until the following works have been carried out to the written satisfaction of the Local Planning Authority:

- a) The spine road and cul-de-sac carriageway including the vehicle turning head within that phase shall have been laid out, kerbed, drained and constructed up to and including base course level, the ironwork set to base course level and the sewers, manholes and service crossings completed;
- b) The spine road and cul-de-sac footways and footpaths which provide that dwelling with direct pedestrian routes to an existing highway maintainable at public expense have been constructed up to and including base course level;
- c) The cul-de-sac visibility splays have been laid out to their final level;
- d) The street lighting for the spine road and cul-de-sac and footpaths has been erected and is operational;
- e) The car parking and any other vehicular access facility required for the dwelling by this permission has/have been completed;
- f) The verge and service margin and vehicle crossing on the road frontage of the dwelling have been completed with the highway boundary properly defined;
- g) The street nameplates for the spine road and cul-de-sac have been provided and erected.

REASON: To ensure that adequate access and associated facilities are available for the traffic attracted to the site

**DCC – FLOOD/COASTAL TEAM RESPONSE – 22<sup>nd</sup> Feb 2018** - Although we have no in-principle objection to the above planning application at this stage, the applicant must submit additional information, as outlined below, in order to demonstrate that all aspects of the proposed surface water drainage management system have been considered.

Observations:

The applicant should explore the use of a variety of above ground source control features across the whole site to avoid managing all of the surface water from the proposed development at the single attenuation pond. This will reduce the likelihood of the pond silting up due to suspended sediments within the runoff. These features could include underdrained permeable paving, formalised tree pits or other bio retention features such as rain gardens, as well as green roofs, swales and filter drains.

**DEVON COUNTY EDUCATION - 14th February 2018**

Devon County Council would like to provide an education response for the application above.

The proposed increase of 125 family-type dwellings will generate an additional 31.25 primary pupils and 18.75 secondary pupils.

There is currently capacity at the nearest primary and secondary school for the number of pupils likely to be generated by the proposed development. Therefore a contribution towards education would not be sought for this development.

**DEVON COUNTY EDUCATION - 21st March 2018** - When requesting contributions from development, we take the capacity of the school and then take off the forecast number of pupils on roll and any pupils that are expected to be generated by development which has been permitted. When this is taken off the school's capacity, we are left with the forecast spare capacity. We then calculate the number of pupils expected to be generated by the development proposed in an application and if this is greater than the forecast spare capacity, we will request contributions from development.

We regularly review our information including the forecast number on roll as well as the capacities of the schools, which will influence how much spare capacity there is.

In the case of Willand, the capacity of the school was updated so the school was able to take more pupils than suggested by the previous information. This change happened in the time between the two applications and resulted in the data showing there was not sufficient spare capacity for one application, but spare capacity for the later application.

**DEVON COUNTY EDUCATION - 28th March 2018**

As records have been updated since the earlier applications, I cannot revisit the information to confirm any older changes that have been made to the data. Pupil forecast information is updated annually which does impact the spare capacity at the schools.

I can advise on the specific issue that has occurred recently which has resulted in different responses to the planning applications. The net capacity of schools is reviewed and updated periodically on our records, which informs our responses to planning applications. During the latest review, which was in October, the net capacity of Willand was updated. It had previously been recorded as 380, which was an error, and was consequently updated to 416. This change in capacity, although there was no actual change in the capacity of the school, impacted on whether we requested for contributions or not. Should developments be permitted in Willand which fill up this spare capacity, we will again request for contributions, but until this point, we would not be able to.

I recognise that for earlier applications e.g. South View Road, the higher capacity of the school was used in the response to the application. Unfortunately, at some point an error occurred and the older (lower) capacity was again used. As this has now been rectified, any future inconsistencies should be avoided.

**PUBLIC HEALTH - 22nd February 2018**

Contaminated Land - no objection to this proposal  
Air Quality - no objections to this proposal  
Environmental Permitting - no objections to this proposal  
Drainage - no objection to this proposal  
Noise & other nuisances - no objection to this proposal  
Housing Standards - no comment  
Licensing - no Comments  
Food Hygiene - not applicable  
Private Water Supplies - not applicable  
Health and Safety- no objection to this proposal enforced by HSE.

**DEVON, CORNWALL & DORSET POLICE - 12th February 2018**

It is appreciated that at this time it is for outline only, as such I am unable to comment in depth as the available Concept Masterplan does not reveal any details that would be of specific concern to the police.

However, please note the following initial comments from a designing out crime, fear of crime, antisocial behaviour (ASB) and conflict perspective:-

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

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

Structure: Places that are structured so that different uses do not cause conflict

Surveillance: Places where all publicly accessible spaces are overlooked, have a purpose and are managed to prevent the creation of problem areas which can attract the antisocial to gather, dumping and dog fouling etc.

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

Physical protection: Places that include necessary, well-designed security features as laid out in SBD Homes 2016

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

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

With an application of this size, areas of concern tend to be in relation to defensible space, clear ownership of property including parking spaces, defensive planting and unwarranted permeability allowing potential offenders to wonder unchallenged.

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

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

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

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

#### **DCC RIGHTS OF WAY OFFICER EAST - 5th March 2018**

The Public Rights of Way Team has a duty to assert and protect the rights of the public to the full and free enjoyment of public rights of way and to maintain the network. In addition, it is also responsible for the maintenance of recreational trails and unsurfaced roads.

Government guidance considers that the effect of development on a public right of way is a material planning condition (Rights of Way Circular 1/09 - Defra October 2009, paragraph 7.2) and that public rights of way and access should be protected and enhanced with opportunities sought to provide better facilities for users by adding links to existing networks (National Planning Policy framework paragraph 75).

Devon County Council's Rights of Way Improvement Plan policy states that, working closely with LPAs, opportunities will be sought for improvements to the rights of way network through planning obligations where new developments are occurring.

It is also the County Council's policy that a holding objection will be made against any planning application which fails to take account of an existing public right of way until the matter is resolved.

#### Assessment of application

Willand Public Footpath Number 2 is a highway in law, recorded on the Definitive Map of public rights of way.

The proposals as submitted 18/00177/FULL and 18/00175/MOUT would have a direct effect on the public right of way as identified on the drawing number 3207 (Turley - Masterplan) and drawing number W15279\_A\_005 and would lead to an increased use.

Application number 18/00175/MOUT indicates that a new estate road bisects Public Footpath Number 2, Willand.

#### Response

The Public Rights of Way Team wishes to impose a holding objection to the above two applications until the applicant has provided further details, and subject to the conditions outlined below.

The holding objection is based on the fact that the proposals do not address the impact on the legal public right of way and would have a detrimental impact on the use and amenity of public rights of way in the locality.

#### Conditions

The County Council would require provision of a safe pedestrian road crossing scheme to alleviate the issue of the proposed bisection of Public Footpath Number 2 Willand.

The County Council would also insist that the existing Public footpath be upgraded to address the issue of increased usage. This would require a minimum surfacing standard of a

1.5 metre width path surfaced with a 100mm depth of sub base topped with a blinding of 6mm to dust. Any upgraded surface must also be correctly profiled and include drainage catchments and pipes.

It should also be noted that the requirement for a stile at the North end of the footpath would no longer exist and therefore should be removed.

The County Council also raises the following minimum general conditions covering submission of details.

- Prior to the commencement of development, an access scheme shall be submitted to and approved in writing by the planning authority, in liaison with the Devon County Council Public Rights of Way Team. Such scheme shall include provision for the design of public rights of way routes and their surfacing, widths, gradients, landscaping and road crossing points.

Reason: In the interests of the amenity and safety of the public.

- Any public rights of way crossed by vehicles shall be maintained in a good state of repair and kept clean and free of mud and other debris at all times.

Reason: in the interests of the amenity of the public.

- Provision shall be made for the installation and maintenance of a drainage system to ensure that no water from the permitted area flows onto the public right of way.

Reason: in the interests of highway safety and safeguarding the local environment.

#### Information

Please note that should the District Council grant planning permission it does not grant the right to close, alter or build over a right of way in any way, even temporarily, this includes, for example, a change in the surface, width or location. Nothing should be done to divert or stop up a public right of way without following the due legal process including confirmation of any order and the provision of any new path. In order to avoid delays this should be considered at an early opportunity. Further information about public rights of way and planning is available on our website.

If permission is granted, please include as footnotes in the decision notice:

The alignment, width, and condition of public rights of way providing for their safe and convenient use shall remain unaffected by the development unless otherwise agreed in writing by the Public Rights of Way Team.

Nothing in this decision notice shall be taken as granting consent for alterations to public rights of way without the due legal process being followed.

**NATURAL ENGLAND** - 21st February 2018

No comments.

**SOUTH WEST WATER** - 27th February 2018 - , the applicant/agent is advised to contact South West Water if they are unable to comply with our requirements as detailed below.

Asset Protection

Please find enclosed a plan showing the approximate location of a public sewer in the vicinity. Please note that no development will be permitted within 3.5 metres of the sewer, and ground cover should not be substantially altered.

Should the development encroach on the 3.5 metre easement, the sewer will need to be diverted at the expense of the applicant. The applicant/agent is advised to contact the Developer Services Planning Team to discuss the matter further.

#### Clean Potable Water

South West Water is able to provide clean potable water services from the existing public water main for the above proposal.

#### Foul Sewerage Services

South West Water advises a Planning Condition to emphasise that: Foul drainage from the Development (and no other drainage) shall be connected to the public foul or combined sewer.

Reason: To ensure the discharge of drainage from the Development shall not be prejudicial to the public sewerage system and ensure there are adequate public foul sewerage facilities to receive foul water flows, in order to safeguard the public and environment.

#### Surface Water Services

The statutory Water and Sewerage Undertaker supports the Planning Policy Guidance for Flood Risk & Coastal Change statement. To accompany its planning application, the applicant must demonstrate how its proposed development will have separate foul and surface water drainage systems and not be detrimental to existing infrastructure, the public and environment (and that any provisions for protecting infrastructure have been agreed with SWWL as service-provider). The applicant should demonstrate to your LPA that its prospective surface run-off will discharge as high up the hierarchy of drainage options as is reasonably practicable (with evidence that the Run-off Destination Hierarchy has been addressed, and reasoning as to why any preferred disposal route is not reasonably practicable):

1. Discharge into the ground (infiltration); or where not reasonably practicable, Provide written evidence as to why Infiltration devices, including Soakaways, Swales, Infiltration Basins and Filter Drains do not meet the design standards as specified in either H3 Building Regulation standards for areas less than 100m<sup>2</sup>. Soakaways serving larger areas must meet the design standard specified in BS EN 752-4 (para 3.36) or BRE Digest 365 Soakaway Design.
2. Discharge to a surface waterbody; or where not reasonably practicable, Provide written evidence for refusal of discharge consent from owner of water body (Environment Agency, Local Authority, Riparian Owner etc)
3. Discharge to a surface water sewer, highway drain, or another drainage system; or where not reasonably practicable, Provide written evidence for refusal of discharge to drainage system (Highway Authority, Environment Agency, Local Authority, Private ownership)
4. Discharge to a combined sewer.( Subject to Sewerage Undertaker carrying out capacity evaluation)  
South West Water will carry out a hydraulic capacity review of the combined sewerage network before permission will be granted to discharge to the combined sewer.

#### **REPRESENTATIONS**

11 letters of objection have been received raising the following concerns:

- Primary school and particularly its hall facility and community health centre would be unable to cope with the influx of people;
- Prefer to look across open fields;
- Silver Street is a relatively narrow road and is very busy. Development will increase traffic congestion;
- The junction of the site is close to the junction with Old Village road;
- Schools in the area cannot cope with the current number of pupils;
- Do not believe that the area is in need of so many houses;
- Worry about the rural area surrounding the village;
- Willand has been built on at a far greater rate than any other village in Mid Devon with no improvement to infrastructure or facilities;
- The site is regularly used by dog walkers and has a public right of way that is well used;
- Development would worsen traffic queues at the two nearby motorway junctions;
- Potential increase in road traffic along Meadow Park;
- The junction between Meadow Park and Silver Street can already be problematic, mostly when Willand Rovers are playing at home or when the mobile food outlets are operating;
- Site is not part and contrary to current policies of the Local Plan;
- Increase in flood risk;
- Vehicles speed along Silver Street.
- Prime agricultural land
- Sewage system unable to cope
- Loss of rural feel to village
- Damage overall community dynamic
- Flooding on B3181 makes it impassable between Willand and Cullompton in times of heavy rain
- Noise from motorway and impact on new residents
- Development of site would negate positive impacts of the Woodland Trust site next door
- Always issues for houses with trees nearby
- Smaller application than previous appeal application but just phase 1 at this stage, with phase 2 coming at a later date

## **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

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

- 1) Planning history**
- 2) Policy and 5 year housing land supply**
- 3) Recent permissions and development in the locality**
- 4) Harmful impacts of the scheme**
- 5) Benefits of the scheme**
- 6) Neutral impacts of the scheme**
- 7) Planning Balance**

### **1) Planning History:**

Last year, the LPA refused an application (ref: 16/01811) for 259 dwellings etc on this application site (together with further additional land). In November 2017, the appeal was dismissed. Given that there have been no changes to policy or progress with the Local Plan Review since that date, the Inspectors findings are still considered relevant to this proposal. References in this report to 'the appeal' relate to the above mentioned appeal and the bracketed numbers refer to the relevant paragraph in the appeal decision, a copy of which

has been appended to this report.

## **2) Policy and 5 year housing land supply:**

Policy COR17 of the Mid Devon Core Strategy (LP1) provides a definition of villages with defined settlement limits and sets out the type and scale of development that is acceptable within defined settlement limits (specifying minor proposals only) and permitted on allocations outside settlement limits. Policy COR18 seeks to control development outside defined settlement limits to appropriate rural uses, excluding new market housing. Policy COR1 of the Core Strategy seeks to manage growth in a sustainable way to support the diverse needs of communities, including the provision of affordable housing and making the most efficient use of land. Policy COR3 seeks to meet the diverse housing needs of the community, including a target provision of approximately 100 affordable dwellings per year across the District.

The development is on agricultural land and at present the entirety of the site lies outside the defined settlement limit for the village of Willand. The Local Plan Review document proposes to allocate a belt of land along the northern boundary of the site for 42 dwellings (30% affordable housing) and to amend the settlement limit to include this land; the bulk of the site would remain in the countryside in planning terms. The site is not allocated and is not being proposed for 100% affordable housing.

The proposal is therefore considered to be contrary to policies COR17 and COR18 of Mid Devon's adopted development plan being a major proposal for residential development outside the current settlement limit. With regard to the Council's emerging policy, the strategy for development focus will be at Tiverton, Cullompton and Cullompton as identified in policy S1.

The LPA cannot currently demonstrate a 5 year supply of deliverable housing sites. The NPPF advises that where this is the case, policies on housing supply should not be considered up to date. This includes settlement limits identifying areas which are open countryside and those which are within defined settlements.

Paragraph 11 of the NPPF (2018) states that where development plan policies are considered to be out of date, planning permission should be granted unless adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the NPPF as a whole or specific policies in the NPPF indicate development should be restricted. Housing applications need therefore to be considered in the context of sustainable development, unless specific policies indicate development should be restricted.

Policies COR17 and COR18 are directly relevant to the supply of housing in the District and are now considered to be out of date. This does not mean that Mid Devon's policies must be cast aside, but the weight given to them is proportionate to their consistency with the NPPF. The Inspector was clear that, in his view, (51)'policies COR 17 and COR 18 are contributing to a restriction on bringing forward development in the District in line with the Framework requirement to boost significantly the supply of housing. Accordingly, the appeal scheme's conflict with these policies is limited.'

## **3) Recent permissions and development in the locality**

The Parish Council have expressed concern that account needs to be taken of other development in the village and locality when considering whether the scale of the proposed development is acceptable. The Parish Council have drawn attention to the allocations in the AIDPD and Local Plan Review (LPR). The AIDPD allocated land outside the settlement limit of Willand for affordable housing. Namely AL/WI/1 on Willand Moor for 10 dwellings and AL/WI/2 on land to the west of Silver Street for 35 dwellings. The LPR document table 2 states that AL/WI/1 has been deleted and 'alternative allocation within the village included in

local plan review' and that AL/WI/2 has been 'replaced by WI1'. So the 45 dwellings previously allocated in the AIDPD have been replaced by an allocation for 42, as per WI1 (land east of M5) in the LPR. In actual fact, the 35 dwellings on AL/WI/2 all have consent, with 7 having been built and work on the other 28 having started on site so the Parish are of the view that account needs to be taken of the fact that the village is already expected to accommodate the 35 dwellings plus another 42 which equates to 77 dwellings rather than the 42 envisaged in the LPR. Table 2 in the LPR causes confusion because it uses the word 'replaced' but in reality AL/WI/2 was deleted because at the time it wasn't coming forward, and WI2 was allocated in its place. Although AL/WI/2 has now been permitted, it doesn't preclude other development in Willand which is our largest designated village. The 42 is still needed to take us up to the plan period 2033. It is not considered unreasonable for a village such as Willand to accommodate a provision of 77 allocated dwellings over a 30 year plan period.

The Parish Council also advise that the latest figures for affordable housing need identified that Willand had a requirement for 40 dwellings over the next 5 years. 35 have been provided on AL/WI/2 and a further 12 would arise from the LPR allocation WI1 and 44 would arise from the current application, more than covering the identified need for Willand. Members should note however that housing sites which are not exception sites, are seeking to address a district-wide need for affordable housing rather than an identified local need and therefore this in itself is not considered to be a reason to refuse the application.

The Parish Council have expressed concern that much of the development which has occurred in the village has come from windfall sites where there has been 'little or no community infrastructure to support that increase'. Whilst this is largely the case, the last application of a size to require s106 mitigation (over and above the public open space and air quality requirements) was the application in 2013 at The Gables for 14 dwellings, whereby the Parish Council took control of the stable block via a s106 agreement as a location for a health and community centre project they wanted to get up and running.

As a result of development which has occurred in the village over recent years, the latest figures show that the number of households in Willand is 1,419. This would include the 7 units of affordable housing on Silver Street which have been occupied, but would not include the 28 units which have permission but not yet constructed. Therefore if you add the 28 units to the 125 being proposed as part of this application, this represents a 10.7% increase in households. Members should be mindful that the build out rates for developers are such that it is likely that this increase will occur over a period of about 4 years. In neighbouring Uffculme, 2 schemes have been granted on appeal totalling 90 dwellings which amounts to an 8.6% increase in households. The appeal scheme for 259 houses amounted to an 18% increase in households.

#### **4) Harmful impacts of the scheme**

In applying the tilted balance under paragraph 11 of the NPPF (2018), the LPA are required to weigh the benefits of the proposal against the adverse impacts. This section of the report therefore considers the harm which may arise from the scheme.

The Parish Council have set out their concerns in relation to the proposal at length and these can be found under the 'consultations' section above. They have consistently expressed concerns about the limited provision of services and facilities within the village and the impact that development on this scale may have on them.

In considering the proposal for 259 dwellings last year, the Inspector concluded that such development would result in harm to social cohesion in the village to such an extent that that the scheme should be refused, with comments such as:

'(17). The proposal would very substantially increase the size of Willand. Within the village, there are a number of dispersed services and facilities. However, taking

into account the existing size of the settlement, they represent a somewhat basic and modest level of provision' and;

'(54)...all of this must be considered in the wider context of creating a mixed and balanced community as promoted by the Framework. I am not persuaded that the proposal would make satisfactory provision for the shops and services that would be necessary to meet the growing needs of a village resulting from such rapid and substantial expansion. The influx of new households on the scale proposed would place additional pressure on the overall limited range of services and facilities in the village and whilst I accept that it is not necessary for the proposed development to be self-contained, I consider it would unbalance the settlement and undermine social cohesion. I give significant weight to the appeal scheme's conflict with the development plan and the Framework in this regard. This in turn limits the weight that I give to the appeal scheme's contribution to market and affordable housing.'

In considering the tilted balance (under para 14 at that time), the Inspector was clear that whilst a 5 year housing supply could not be demonstrated, the scale of the development proposed was at odds with both the development plan and the NPPF in terms of providing for sustainable development and as such he dismissed the appeal.

Since the appeal, there has been little in the way of change to the facilities available within the village. A new Co-op store is currently under construction at Mid Devon Business Park but not yet open, and the petrol filling station with small shop on the B3181 towards Waterloo Cross Roundabout has closed.

125 dwellings as proposed in the current application is still considered to be a substantial provision in a village where an allocation for just 42 dwellings has been proposed. Without any corresponding improvement to the facilities/services on offer in the village, your officers remain of the view that development of this scale would unbalance the settlement and undermine social cohesion. In his appeal decision, the Inspector made it clear that it was the lack of actual facilities within the village which was of concern to him. He noted that the developer was making contributions towards education and healthcare facilities but (19) '...there would be no corresponding increase in the number of other services and facilities' and (54) 'I am not persuaded that the proposal would make satisfactory provision for the shops and services that would be necessary to meet the growing needs of a village..' This application seeks to address this by proposing mitigation in the form of s106 contributions which will be covered later in this report.

The Parish Council have expressed their concern about noise, particularly in respect of whether occupants of the site can expect a reasonable level of amenity given the close proximity of the M5 to the site boundary. It is accepted that noise will need to be mitigated to make the development acceptable but your Environmental Health officers have not raised any objections and no such concerns were raised by the Inspector in his appeal decision and therefore the harm which may be attributed to this factor is limited.

In terms of the impact of the development on the character and appearance of the countryside, the Inspector considered this element too and concluded, '(15). It is common ground between the parties that there would be some albeit minor harm to the local landscape. The site would sit between the M5 and Silver Street and it is reasonably well-screened in most of the available views although there are areas along Silver Street and Meadow Park, where there are more open views. The proposed development would clearly change the character of this part of the countryside and the dwellings would have some presence in the available views although this could be mitigated by the use of

planning condition. Overall, I agree with the parties that there would be only minor harm to the character and appearance of the countryside.'

The Rights of Way Officer at DCC has requested further information be provided in respect of the impact on the public right of way which crosses the site to ensure that it is available at all times and suitably upgraded. They have also provided suggested conditions to be attached to the consent which in your officers opinion (given that this is an outline application only) can be adequately addressed in this manner.

The weight to be attributed to the harm which has been identified will be addressed in the planning balance section below

## **5) Benefits of the scheme**

In applying the tilted balance under paragraph 11 of the NPPF (2018), the LPA are required to weigh the benefits of the proposal against the adverse impacts. This section of the report therefore considers the benefits of the scheme.

Clearly there is a District wide benefit to boosting the supply of housing at a time when the LPA are unable to demonstrate a 5 year supply. The provision therefore of 125 new dwellings must be considered a benefit to housing supply.

There is also a district wide need for affordable housing and this scheme proposes a 35% provision which would result in the provision of 44 affordable dwellings. The application proposes a tenure split of 60% affordable rent and 40% other with the unit mix (requested by Housing Options Manager) as follows:

- 1 Bed – 15%
- 2 Bed – 45%
- 3 Bed – 30%
- 4 Bed – 10%

The Housing Options Manager has advised that there are currently 44 people on Devon Home Choice wanting an affordable housing unit in Willand. Local need is currently being partly addressed through the on-site provision of 28 new dwellings at Silver Street and therefore the local need is limited to just 16. The provision of affordable housing is a benefit of the scheme but clearly is not limited to meeting an identified local need for affordable housing, which would weigh greater in the balance.

The applicants have provided an Economic Benefits Infograph which pictorially shows some of the economic benefits of the proposal during the construction and operational phases including £16.4m investment resulting in 47 FTE jobs per annum over the 4 year build programme, £3.9m economic output over the 4 year build programme with £2.1m in Mid Devon and £1.8m and £1m uplift in annual retail and leisure expenditure respectively equivalent to 11 and 29 FTE jobs respectively.

With regards to the concern expressed by the Inspector at the appeal about the impact of the proposal for 259 dwellings on social cohesion and the continued concerns from the Parish Council regarding the ability of the village to absorb a development of this scale, the applicant has engaged with officers and the Parish Council to understand where the particular deficiencies in supply exist. A meeting was held whereby a representative of the Parish Council and one of the Ward Members set out what the community consider to be the main projects which would need to be undertaken in the village to seek to mitigate the impacts of the additional population generated by the proposed development.

Members are reminded at this point about the basis on which a Local Planning Authority may request and accept s106 provision or contributions towards off-site provision or improvement of facilities in connection with a planning application.

Paragraph 56 of the NPPF (2018) and Regulation 122 of the Community Infrastructure Levy Regulations 2011 (as amended) set tests in respect of planning obligations. Obligations should only be sought where they meet the following tests:

- Necessary to make the development acceptable in planning terms;
- Directly related to the development; and
- Fairly and reasonably related in scale and kind to the development.

In addition, Regulation 123 seeks to ensure that required financial contributions would not breach the pooling restrictions in that no more than 5 contributions in total have been collected towards the same project.

In response to the meeting that was held and having considered the CIL Regulations set out above, the applicant has agreed to make the following financial contributions (their offer is on the basis of targeting any possible contributions at a smaller number of projects to try and ensure full funding and therefore deliverability rather than contributing to a wider range of projects on a more limited basis which would require top-up funding from elsewhere):

- i) Full funding of £250K for a 'studio extension' at Willand Primary School.- DCC Education Authority has advised that there is capacity at the school for the number of pupils which would be generated by the development proposal and as such they are not seeking any contributions from the developer. However, whilst capacity is not an issue the Ward Member and Parish Council representative were able to explain in detail to the applicant, the significant problems facing the school in terms of the facilities they have. The school have planning permission (17/00405/DCC) for a new studio which will also act as overspill for the dining facilities and various other uses (the Parish Council representative was able to explain that the current dining facilities were so inadequate for the number of children it served, that they had witnessed children having to queue for a period of time to wait for a seat whilst holding a plate of hot food). In addition, the lack of space in the school means that they rely on booking the village hall for some of their sessions, and consequently the village hall is overbooked on a number of occasions, preventing further community uses/classes/meetings from taking place. Consequently the Parish Council and Ward Member were clear that this was the main priority of the community in terms of the mitigation for any future development in the village as not only would it assist in the educational needs of the younger members of the community through the availability and suitability of general school accommodation, and the ability to deliver a range of services and full curriculum but it would free up valuable space in the village hall for other sectors of the community. In addition, the documents submitted with the application for the school extension stated that the design of the extension would enable 'better access for the community to use the school hall independently out of hours, therefore increasing the likelihood of it to be used by the community' although it does not seem at present like this is something the school are considering. DCC have confirmed that whilst they are not able to make a request for this funding, they would prioritise the spending of it, if it were to be collected via a s106 agreement.
- ii) The Willand Health and Community Centre project is to be located in the old stable building of The Gables. Members may recall that as part of the

development of the land on which a former dwelling known as The Gables was located, the stable building was sold at a reduced value to the Parish Council for 'community uses'. The buildings are still currently vacant but more recently the Parish Council have been approached by the Willand Pre-school who are looking to expand their current provision as they are currently turning children away. They have been in discussions with the Parish Council in respect of leasing half of the site for a pre-school. It is understood that the pre-school have the funding in place to upgrade the entire building, but that funds are still required to get the remaining half of the building fitted out to provide a memory café, day centre and other community facilities for use by residents of the village. Therefore the applicant is willing to make a £52,500 contribution towards the Willand Health and Community Centre project for the fitting out that part of the building to be used for a mixed community use to include memory café, day centre and other community uses. This will be of benefit particularly to those residents of the village who are older and may be experiencing social isolation – giving them somewhere to meet and socialise.

- iii) Contribution of £125K for the costs of upgrading the Jubilee Field BMX/Skate Park or other Recreation/Teen facilities in the village – The current skate park at the Jubilee Field consists of 3 small pieces of equipment on a hard surface. The BMX facility adjacent is a grassed provision consisting of an area of mounds and troughs. The applicant considers that this provision would give flexibility for the Parish Council to fully or partly fund this or other projects (such as other Trim Trail equipment at Jubilee Field or elsewhere in the village), to deliver increased provision for outdoor recreation for teens and the wider community
  
- iv) The applicant has also advised that contributions towards mitigating the impacts on the surrounding road network will also be provided as part of the s106 in relation to any grant of outline planning permission in relation to a) the implementation of a Travel Plan; b) Public Transport (Bus) Contribution of £100,000.00 towards improvement (increased frequency of service) of the Stage Coach No.1 service, to be phased at £20,000pa over 5 years, triggered on occupation of 25<sup>th</sup> Dwelling and; c) Improvements (widening) to Silver Street footway connecting to Village Centre

The relative weight to be attached to these benefits will be assessed in the Planning Balance section below.

## **6) Neutral impacts of the scheme**

In considering the appeal the Inspector considered there were several elements with a neutral impact, these being highways, the impact on the conservation area and the retention of existing businesses

This is an outline application with all matters including access, to be determined at a later date. In this instance the access is the subject of a separate application (18/00177/FULL) to be considered later in this agenda. In determining the appeal for the 259 dwellings, the Inspector considered both local and wider highway impacts and came to the conclusion that, '(59) In terms of the transport impacts of the proposal, Paragraph 32 of the Framework says that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe. For the reasons set out in my consideration of the second main issue, I do not find that to be the case here and thus this is also a neutral factor in the overall planning balance.' This was on the basis of a package of Travel Plan measures being proposed by the applicant seeking to promote sustainable travel by all households in the development. The applicant is providing funding towards the bus

service between Tiverton and Exeter as part of the current application to further boost the use of sustainable transport options and making improvements to footway provision in the vicinity of the site to promote pedestrian access to facilities and services in the village

Willand Conservation Area is centred around Willand Old Village and separated from the application site by an area of residential development in between as well as Silver Street itself. The Inspector was therefore satisfied that the proposal would not result in harm to the setting of the Conservation Area.

Equally, at para (57) of the appeal decision he identified no harm in terms of the retention of existing local businesses

At the appeal, there were several areas identified as being common ground between the LPA and the applicant so the Inspector didn't consider them further. These were relating to drainage, trees and ecology.

The site is in flood zone 1 and not liable to fluvial flooding. However, the low lying parts of the site are wet and are therefore proposed to be used to attenuate surface water from the site or provide green infrastructure. The LLFA do not object to the proposal, no objections were raised in respect of flood or surface water runoff risk at appeal and therefore it is considered that the conditions put forward at appeal should be included with any approval.

South West Water has previously concerns regarding the capacity of the sewerage network to accommodate the additional flows arising from the development but were satisfied that their concern could be dealt with by condition.

Air Quality in parts of the centre of Cullompton are very poor and this has resulted in an air quality management area being designated. The applicants have provided information with their application regarding the impact of this development on the air quality in Cullompton and as such Environmental Health have raised no objections to the proposal on the grounds of air quality in Cullompton.

The site is bound on its northern boundary by mature trees, some of which lie within a woodland maintained by the Woodland trust and which are included within a Tree Preservation Order. Within the site are field boundaries comprising native hedgerow mixes and a number of specimen trees. Two Oak trees located along one of the hedgerows within the site are proposed for removal to facilitate access to the site and although they are reasonable hedgerow Oaks their loss could be mitigated with replacement planting, although as this application is in outline only, the precise alignment of the internal road is not determined.. The proposals include the retention of most of the hedgerows within the site, which along with the retention of the majority of the trees, would be of benefit to the character and appearance of the development. Conditions should be imposed with any grant of planning permission to secure an Arboricultural Impact Statement and Arboricultural Method Statement as part of reserved matters submissions.

The submitted Ecological survey identifies the presence on site of a number of different protected species, including badgers, bats and dormice. The survey makes a number of recommendations to preserve those habitats and also sets out mitigation measures that would be implemented in order to result in a net increase in biodiversity, which is in accordance with policies DM2 and DM28 of the Local Plan Part 3 (DMP).

## **7) Planning Balance**

The Local Planning Authority cannot demonstrate a 5 year housing land supply.

The NPPF states that where the development plan is absent, silent or relevant policies are out-of-date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the NPPF taken as a whole; or specific policies in the NPPF indicate development should be restricted. There are no restrictive policies in the NPPF that indicate development should be restricted in this instance. At the heart of the NPPF is the presumption in favour of sustainable development, which has three mutually dependent dimensions - economic, environmental and social.

Policies COR 17 and COR 18 are contributing to a restriction on bringing forward development in the District in line with the NPPF requirement to boost significantly the supply of housing. Accordingly, the Inspector considered that whilst the proposed scale of the development was clearly contrary to both these policies, little weight could be attached to them.

The NPPF seeks to boost significantly the supply of housing. In this respect the Inspector was satisfied that a contribution of 259 dwellings to housing supply in a District where there is currently a shortfall carried significant weight and your officers are of the view that this is also the case with the 125 dwellings now proposed. The NPPF also says that local planning authorities should consider whether allowing some market housing would facilitate the provision of significant additional affordable housing to meet local needs. The current scheme would result in 35% of the total number of proposed dwellings being affordable, which on the face of it would represent a significant benefit but as set out above, the provision is for 35% provision in line with policy to meet a district wide need rather than an identified local need. The Inspector considered all of this in the wider context of creating a mixed and balanced community as promoted by the NPPF and this is where he considered that the harm caused to social cohesion as a result weighed against the development proposal.

In weighing the benefits against the harm in relation to the current application, your officers are of the view that there are 2 key differences between this and the appeal proposal to consider. Firstly, the proposed scheme is substantially different in scale to the previous application (125 dwellings as opposed to 259 dwellings) and secondly, the applicant has considered what could be done to mitigate the impact of the development on the stretched facilities in the community by offering financial contributions towards 3 high priority projects identified by the community itself. Without the offer to fully fund a major project to improve the facilities at the school, fit out the Health and Community Centre and to improve recreational equipment in the village which could be used by all sectors of the community, Officers would remain concerned about the level of development proposed and the effects on social cohesion. However, in balancing the benefits against the harm, significant weight has been given to the mitigation proposals which seek to provide a sustainable form of development – improving the facilities on offer in the village and by offering to fully fund projects to ensure that they are able to come forward in-line with the development of the site. Therefore the key difference between this and the previous scheme is that it seeks to address the Inspectors concerns that there would be no corresponding increase in the number of services and facilities – the mitigation being offered seeks to make the additional provision rather than just a contribution towards existing provision.

## **8) S106 heads of terms**

The recommendation to grant planning permission is subject to the prior signing of a s106 agreement as follows:

- a) 35% affordable housing (tenure mix, size mix and other details to be agreed);
- b) On-site provision and maintenance of LEAP for the lifetime of the development

- c) On-site provision and maintenance of SUD's for the lifetime of the development
- d) Submission, adherence to and reporting on a Travel Plan;
- e) Public Transport (Bus) Contribution of £100,000.00 towards improvement of No.1 service (by way of increased frequency of service), to be phased at £20,000.0pa over 5 years, triggered on occupation of 25<sup>th</sup> Dwelling;
- f) Improvements (widening) to Silver Street footway connecting to Village Centre;
- g) £250,000 contribution towards the implementation of planning application 17/00405/DCC to provide studio facilities at Willand Primary School
- h) £52,500 contribution towards the Willand Health and Community Centre project for the fitting out that part of the building to be used for a mixed community use to include memory café, day centre and other community uses
- i) £125,000 contribution for the costs of upgrading the Jubilee Field BMX/Skate Park or other Recreation/Teen facilities in the village

With regards to items g) - i) inclusive above, a trigger within the s106 requiring payment at an early stage will need to be agreed, to ensure that mitigation is in line with on-site development, the timing of which can be agreed with Ward Members for inclusion in the s106 agreement.

## **CONDITIONS**

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

managed to prevent it from entering the permanent surface water drainage management system and include a timetable for the implementation of the management plan. Once approved the management plan shall be implemented in accordance with the approved details.

7. No development shall begin until an Arboricultural Method Statement and Tree Protection Plan, to include engineering details for any areas of no-dig construction, has been submitted to (with or in advance of the first Reserved Matters application) and approved in writing by the Local Planning Authority. The development shall be carried out in strict accordance with the approved details.
8. The development hereby approved shall not be carried out otherwise than in accordance with a phasing programme which shall previously have been submitted to and approved by the Local Planning Authority in writing.
9. No other part of the development hereby approved shall be commenced until:
  - (a) The access road has been laid out, kerbed, drained and constructed up to base course level for the first 20.00 meters back from its junction with the public highway
  - (b) The ironwork has been set to base course level and the visibility plays required by this permission laid out
  - (c) The footway on the public highway frontage required by this permission has been constructed up to base course level
  - (d) A site compound and car park have been constructed to the written satisfaction of the Local Planning Authority
10. Prior to the commencement of development, full details of the off-site highway improvements to widen the footways along the B3181 in accordance with drawing number A-012 Rev: P1 received by the LPA on 13<sup>th</sup> July 2018 shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the approved works shall be completed, in accordance with the approved details or subsequently agreed details, prior to any occupation of any dwelling on the site.
11. The occupation of any dwelling in an agreed phase of the development shall not take place until the following works have been carried out:
  - (a) The spine road and cul-de-sac carriageway including the vehicle turning head within that phase shall have been laid out, kerbed, drained and constructed up to and including base course level, the ironwork set to base course level and the sewers, manholes and service crossings completed;
  - (b) The spine road and cul-de-sac footways and footpaths which provide the dwelling with direct pedestrian routes to an existing highway maintainable at public expense have been constructed up to and including base course level;
  - (c) The cul-de-sac visibility splays have been laid out to their final level;
  - (d) The street lighting for the spine road and cul-de-sac and footpaths has been erected and is operational;
  - (e) The car parking and any other vehicular access facility required for the dwelling by this permission has/have been completed;

- (f) The verge and service margin and vehicle crossing on the road frontage of this dwelling have been completed with the highway boundary properly defined;
  - (g) The street nameplates for the spine road and cul-de-sac have been provided and erected.
12. No development shall commence on site until a Construction Management Plan has been submitted to and approved in writing by the local planning authority. The plan shall include, but shall not necessarily be limited to, details of the following:
- (a) parking for vehicles of site personnel, operatives and visitors;
  - (b) loading and unloading of plant and materials;
  - (c) storage of plant and materials;
  - (d) programme of works (including working hours and measures for traffic management);
  - (e) provision of any hoarding or temporary fencing; and
  - (f) measures to control construction noise, the emission of dust and the deposit of materials on the public highway.

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

13. The first Reserved Matters application to be submitted shall include a strategy for the management and maintenance of all green infrastructure across the application site (including, for the avoidance of doubt, all areas of Public Open Space). The Strategy document shall set out the management, maintenance, access and use arrangements for each area of the site, and a delivery plan identifying a trigger date for the completion of each of the relevant land parcels. Reserved matters applications for the site shall incorporate the approved details.
14. As part of the Reserved Matters submission/s referred to in Condition 1, a Waste Audit Statement shall be submitted to and approved in writing by the LPA, setting out how the construction and operation of the development will accord with best practice sustainable waste management principles. Construction shall thereafter be carried out in accordance with the agreed scheme.
15. Prior to the commencement of the development hereby permitted, a detailed design and location plan for the proposed noise mitigation scheme (which may include a bund construction) shall be submitted for approval to the Planning Authority (who shall consult with Highways England on behalf of the Secretary of State for Transport). Any bund shall not be constructed within 3m of the M5 boundary fence. Construction shall be carried out in accordance with the approved details.
16. Prior to the commencement of the development hereby permitted, a detailed surface water management plan with drainage calculations shall be submitted for approval to the Planning Authority (who shall consult with Highways England on behalf of the Secretary of State for Transport). No additional flows shall be accepted into the highways drainage asset in line with DfT Circular 02/2013 (paragraph 50).
17. Prior to commencement of the development hereby permitted; details of the proposed acoustic fencing and its founding's shall be submitted for approval to the Planning Authority (who shall consult with Highways England on behalf of the Secretary of

State for Transport). The acoustic fence shall be constructed in accordance with the approved details.

18. Prior to any planting taking place on the western boundary and any bund, a planting schedule shall be submitted for approval to the Planning Authority (who shall consult with Highways England on behalf of the Secretary of State for Transport). All planting shall be carried out in accordance with the approved details.
19. Foul drainage from the Development (and no other drainage) shall be connected to the public foul or combined sewer...
20. 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.
21. 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 (Report Ref. B15279- FRA-01 v8 dated Jan 2018).
22. No part of the development hereby permitted shall be commenced until the full details of the adoption and maintenance arrangements for the proposed permanent surface water drainage management system have been submitted to, and approved in writing by, the Local Planning Authority, in consultation with Devon County Council as the Lead Local Flood Authority.
23. No development shall begin until an investigation and risk assessment, in addition to any assessment provided with the planning application, and has been completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:
  - (i) a survey of the extent, scale and nature of contamination;
  - (ii) an assessment of the potential risks to:
    - human health,
    - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
    - adjoining land,
    - groundwater's and surface waters,
    - ecological systems,

– archaeological sites and ancient monuments;

(iii) An appraisal of remedial options, and proposal of the preferred option(s).

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

24. No development shall begin until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, has been submitted to and approved in writing by the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

25. No development shall begin until the approved remediation scheme has been carried out in accordance with its terms. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and approved in writing by the Local Planning Authority.

26. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of Condition 23, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of Condition 24, which is subject to the approval in writing of the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with Condition 25.

27. No development shall commence until a scheme for Electric Vehicle Charging Points ("EVCP") has been submitted to and approved in writing by the Local Planning Authority, such scheme to include provision of at least a single EVCP for each dwelling comprised in the development which has a private driveway or garage within its curtilage ("Relevant Dwelling"). The installation of the EVCPs shall be completed in accordance with the approved scheme prior to first occupation of each Relevant Dwelling.

28. No development shall commence on site until a surface water drainage scheme based upon sustainable urban drainage principles (including a full drainage masterplan and associated drainage calculations) has been submitted to and approved in writing by the local planning authority, to include both the construction and operational phases of the development. The scheme shall be fully implemented and subsequently maintained, in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may be agreed in writing by the local planning authority
29. Prior to the commencement of development, an access scheme shall be submitted to and approved in writing by the planning authority, in liaison with the Devon County Council Public Rights of Way Team. Such scheme shall include provision for the design of public rights of way routes and their surfacing, widths, gradients, landscaping and road crossing points.
30. Any public rights of way crossed by vehicles shall be maintained in a good state of repair and kept clean and free of mud and other debris at all times.

### **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 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.
6. 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.
7. To ensure that the mature trees on site continue to contribute where possible to the character and appearance of the area
8. To ensure the proper development of the site.
9. To minimise the impact of the development on the highway network in accordance with Paragraph 109 of NPPF (2018).
10. To minimise the impact of the development on the highway network in accordance with Paragraph 109 of NPPF (2018).

11. To minimise the impact of the development on the highway network in accordance with Paragraph 109 of NPPF (2018).
12. To minimise the impact of the development on the highway network in accordance with Paragraph 109 of NPPF (2018).
13. In order to comply with the requirements of policy and to ensure that appropriate provision is in place for the recreational needs of future occupiers of the development
14. In order to comply with the requirements of policy DM4 of Mid Devon Local plan part 3 (Development Management Document) in relation to waste management.
15. To prevent any possible future claims for injurious affection due to traffic noise on the M5 being brought by potential residents of the proposed development.
16. To ensure that proposal will not have an adverse impact on the SRN drainage located at the toe of the batter slope supporting the M5.
17. To ensure the stability of the fence and to ensure it is provided to a suitable acoustic construction.
18. To ensure that the proposals do not cause issues with the existing Strategic Road Network (motorway).
19. To ensure that foul drainage from the development is adequately disposed of.
20. 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.
21. 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.
22. To ensure that the development's permanent surface water drainage management systems will remain fully operational throughout the lifetime of the development.
23. In the interests of public health and the protection of the environment.
24. In the interests of public health and the protection of the environment.
25. In the interests of public health and the protection of the environment.
26. In the interests of public health and the protection of the environment.
27. In order to comply with the requirements of policy DM8 of Mid Devon Local Plan part 3 (Development Management Plan) in relation to parking.
28. 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.
29. In the interests of the amenity and safety of the public.
30. In the interests of the amenity of the public.

## **INFORMATIVES**

1. This application is subject to a S106 agreement.

2. Rights of Way

- The alignment, width, and condition of public rights of way providing for their safe and convenient use shall remain unaffected by the development unless otherwise agreed in writing by the Public Rights of Way Team.
- Nothing in this decision notice shall be taken as granting consent for alterations to public rights of way without the due legal process being followed.

## **REASON FOR APPROVAL OF PERMISSION**

The Local Planning Authority cannot demonstrate a 5 year housing land supply. The NPPF states that where the development plan is absent, silent or relevant policies are out-of-date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the NPPF taken as a whole; or specific policies in the NPPF indicate development should be restricted. There are no restrictive policies in the NPPF that indicate development should be restricted in this instance. At the heart of the NPPF is the presumption in favour of sustainable development, which has three mutually dependent dimensions - economic, environmental and social. Policies COR 17 and COR 18 are contributing to a restriction on bringing forward development in the District in line with the NPPF requirement to boost significantly the supply of housing. Accordingly, the Inspector considered that whilst the proposed scale of the development was clearly contrary to both these policies, little weight could be attached to them.

The NPPF seeks to boost significantly the supply of housing. In this respect the Inspector considering the appeal in Nov 2017 ref: 16/01811 was satisfied that a contribution of 259 dwellings to housing supply in a District where there is currently a shortfall carried significant weight and the LPA are of the view that this is also the case with the 125 dwellings now proposed. The NPPF also says that local planning authorities should consider whether allowing some market housing would facilitate the provision of significant additional affordable housing to meet local needs. The current scheme would result in 35% of the total number of proposed dwellings being affordable, which on the face of it would represent a significant benefit but as set out above, the provision is for 35% provision in line with policy to meet a district wide need rather than an identified local need. The Inspector considered all of this in the wider context of creating a mixed and balanced community as promoted by the NPPF and this is where he considered that the harm caused to social cohesion as a result weighed against the development proposal. In weighing the benefits of this proposal for 125 houses against the harm the LPA have concluded that there are 2 key differences between this and the appeal proposal to consider. Firstly, the proposed scheme is substantially different in scale to the previous application (125 dwellings as opposed to 259 dwellings) and secondly, the applicant has considered what could be done to mitigate the impact of the development on the stretched facilities in the community by offering financial contributions towards 3 high priority projects identified by the community itself. Without the offer to fully fund a major project to improve the facilities at the school, fit out the Health and Community Centre and to improve recreational equipment in the village which could be used by all sectors of the community, the LPA would remain concerned about the level of development proposed and the effects on social cohesion in the village of Willand. However, in balancing the benefits against the harm, significant weight has been given to the mitigation proposals

which seek to provide a sustainable form of development – improving the facilities on offer in the village and by offering to fully fund projects to ensure that they are able to come forward in-line with the development of the site. Therefore the key difference between this and the previous scheme is that it seeks to address the Inspectors concerns that there would be no corresponding increase in the number of services and facilities – the mitigation being offered seeks to make the additional provision rather than just a contribution towards existing provision. To this end, the LPA have concluded that the scheme would address the previous appeals shortcomings in respect of social cohesion, and consider that the development would now be considered sustainable and accordingly have approved the application with a S106 obligation to ensure that these benefits are delivered and in a timely manner.

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.

**THE APPEAL DECISION WITH REGARD TO THIS APPLICATION IS ATTACHED TO THE BACK OF THE PLANS LIST**



**APPLICATION NO: 18/00177/FULL**

## **RECOMMENDATION**

Grant permission subject to conditions

## **PROPOSED DEVELOPMENT**

This is a full stand-alone application for the creation of new access for residential development of up to 125 dwellings to be provided from Meadow Park, into the application site previously considered on this agenda. The application proposes an access with 2m wide footways at either side the tie in with the existing footway network on Meadow Park. The access is in the vicinity of the bus stop and can provide visibility of 43m in either direction. The proposal will necessitate the removal of some trees at the point of access.

## **APPLICANT'S SUPPORTING INFORMATION**

Covering letter  
Transport assessment  
Tree survey

## **RELEVANT PLANNING HISTORY**

18/00177/FULL - PCO date  
Creation of new access for residential development of up to 125 dwellings

## **OTHER HISTORY**

18/00175/MOUT – outline for the erection of up to 125 dwellings with public open space and associated infrastructure – under consideration earlier in this agenda

## **DEVELOPMENT PLAN POLICIES**

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

COR1 Sustainable communities  
COR9 Access  
COR10 Strategic transport networks  
COR11 Flooding

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

DM1 Presumption in favour of sustainable development  
DM2 High quality design  
DM6 Transport and air quality

## **CONSULTATIONS**

**WILLAND PARISH COUNCIL** - Willand Parish Council recommend refusal of this application as it is linked to an application for 125 houses which is contrary to policy and has a number of other issues which make it unacceptable. To approve an access in isolation from any development which has not been approved is considered to be unwise. If the access is approved but the outline housing application is refused then the access may not be appropriate for the planned housing in accord with the emerging local plan at Policy WI1. Policy WI1 states:

A site of 2.9 hectares at land east of M5, Willand, is allocated for residential development subject to the following:

- a) 42 dwellings with 30% affordable housing;
- b) Provision of buffer zone and appropriate planting to mitigate noise from the adjacent motorway;
- c) Mitigation of any wildlife impact including protection of trees;
- d) Transport assessment of capacity at the junction of Silver Street and Meadow Park; and
- e) Retention and enhancement of the public right of way.

Supporting Paragraph 3.237 states: A Transport Assessment of the capacity of the junction of Silver Street and Meadow Park may result in a different number of dwellings from the number allocated. The current public footpath across the northern boundary of the site should be retained and enhanced.

Policy WI1 d) Transport assessment of capacity at the junction of Silver Street and Meadow Park. A transport assessment has been carried out as a desk bound and computer model in the main. It cannot be seen that any practical account has been taken of the effect of school drop off and collection or the on-street parking during evenings or weekends. No account seems to have been taken of the on-road parking and traffic movement through the junction when Willand Rovers have home games. No account has been taken of the extra traffic past the junction on the B3181 when the M5 or other roads are closed and this is used as a diversion route. An event which seems to be happening with greater frequency.

**DCC HIGHWAYS** - . 19th April 2018 - The Highway Authority has viewed the site and its access subject to separate application

18/0177/FULL. The Highway Authority has considered the transport assessment and is satisfied with its contents and the figures and conclusions. The Highway Authority have taken into consideration the parish concerns over the survey data being outside school operating dates and the increase in activity around pick up and drop off. The proposed development will generate 28 movements in the Am peak turning left and less in the PM this represents 6% of the traffic along silver street in the Am peak in august and will be less than 6% with the anticipated increase in school traffic but this is likely to be a negligible number. The Highway Authority have previously accepted the survey data in an earlier application and it would be unreasonable not to do so for this application. More over accident statistics show 3 slight accidents in the vicinity of the school none are related to each other and no pattern of causation gives rise to a specific reason. Notwithstanding the Highway Authority is investigating further.

The parish has raised the policy requirement for the improvement of the footways to the village centre, The Highway Authority would concur that the footway width could benefit from widening to a minimum of 2.0m throughout, but this will require land outside of the control of the Highway Authority but I am led to believe this is in the control of the District council. The vegetation adjacent to the footway overgrows the existing footway and should be cleared to the edge of footway and to a minimum height of 2.4m and maintained as such as a bear minimum. To widen the path may require the removal of hedge and trees. Utilisation of the off road track to the east of the site should be made and it should forma footway / cycle way with access to the proposed development.

The application should be subject to an appropriate legal agreement under the Town and

Country planning act to deliver the Travel Plan, a bus contribution of £100,000.00 towards the improvement of the number 1 service to be phased at £20,000.00 per annum over 5 years with initial trigger being on the occupation of the 25th Dwelling, Improvements to the footways to village centre along Silver street.

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

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

2. The development hereby approved shall not be carried out otherwise than in accordance with a phasing programme which shall previously have been submitted to and approved by the Local Planning Authority in writing.

REASON: To ensure the proper development of the site.

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

REASON: To protect water quality and minimise flood risk in accordance with Flood Management Act.

The occupation of any dwelling in an agreed phase of the development shall not take place until the following works have been carried out to the written satisfaction of the Local Planning Authority:

a) The spine road and cul-de-sac carriageway including the vehicle turning head within that phase shall have been laid out, kerbed, drained and constructed up to and including base course level, the ironwork set to base course level and the sewers, manholes and service crossings completed;

b) The spine road and cul-de-sac footways and footpaths which provide that dwelling with direct pedestrian routes to an existing highway maintainable at public expense have been constructed up to and including base course level;

c) The cul-de-sac visibility splays have been laid out to their final level;

d) The street lighting for the spine road and cul-de-sac and footpaths has been erected

and is operational;

e) The car parking and any other vehicular access facility required for the dwelling by this permission has/have been completed;

f) The verge and service margin and vehicle crossing on the road frontage of the dwelling have been completed with the highway boundary properly defined;

g) The street nameplates for the spine road and cul-de-sac have been provided and erected.

REASON: To ensure that adequate access and associated facilities are available for the traffic attracted to the site

**DCC – FLOOD/ COASTAL RISK MANAGEMENT TEAM - Recommendation:**

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

**Observations:**

We have no in principle objection to this application, however I would note that it is linked to a major application for a development of 125 houses, for which we have requested additional information with regard to the surface water drainage. Therefore, I would request that this application is not determined until the additional information for the major application has been provided and approved.

**RIGHTS OF WAY OFFICER EAST - 5th March 2018**

The Public Rights of Way Team has a duty to assert and protect the rights of the public to the full and free enjoyment of public rights of way and to maintain the network. In addition, it is also responsible for the maintenance of recreational trails and unsurfaced roads.

Government guidance considers that the effect of development on a public right of way is a material planning condition (Rights of Way Circular 1/09 - Defra October 2009, paragraph 7.2) and that public rights of way and access should be protected and enhanced with opportunities sought to provide better facilities for users by adding links to existing networks (National Planning Policy framework paragraph 75).

Devon County Council's Rights of Way Improvement Plan policy states that, working closely with LPAs, opportunities will be sought for improvements to the rights of way network through planning obligations where new developments are occurring.

It is also the County Council's policy that a holding objection will be made against any planning application which fails to take account of an existing public right of way until the matter is resolved.

**Assessment of application**

Willand Public Footpath Number 2 is a highway in law, recorded on the Definitive Map of public rights of way.

The proposals as submitted 18/00177/FULL and 18/00175/MOUT would have a direct effect on the public right of way as identified on the drawing number 3207 (Turley - Masterplan) and drawing number W15279\_A\_005 and would lead to an increased use.

Application number 18/00175/MOUT indicates that a new estate road bisects Public Footpath Number 2, Willand.

## Response

The Public Rights of Way Team wishes to impose a holding objection to the above two applications until the applicant has provided further details, and subject to the conditions outlined below.

The holding objection is based on the fact that the proposals do not address the impact on the legal public right of way and would have a detrimental impact on the use and amenity of public rights of way in the locality.

## Conditions

The County Council would require provision of a safe pedestrian road crossing scheme to alleviate the issue of the proposed bisection of Public Footpath Number 2 Willand.

The County Council would also insist that the existing Public footpath be upgraded to address the issue of increased usage. This would require a minimum surfacing standard of a 1.5 metre width path surfaced with a 100mm depth of sub base topped with a blinding of 6mm to dust. Any upgraded surface must also be correctly profiled and include drainage catchments and pipes.

It should also be noted that the requirement for a stile at the North end of the footpath would no longer exist and therefore should be removed.

The County Council also raises the following minimum general conditions covering submission of details.

- Prior to the commencement of development, an access scheme shall be submitted to and approved in writing by the planning authority, in liaison with the Devon County Council Public Rights of Way Team. Such scheme shall include provision for the design of public rights of way routes and their surfacing, widths, gradients, landscaping and road crossing points.

Reason: In the interests of the amenity and safety of the public.

- Any public rights of way crossed by vehicles shall be maintained in a good state of repair and kept clean and free of mud and other debris at all times.

Reason: in the interests of the amenity of the public.

- Provision shall be made for the installation and maintenance of a drainage system to ensure that no water from the permitted area flows onto the public right of way.

Reason: in the interests of highway safety and safeguarding the local environment.

## Information

Please note that should the District Council grant planning permission it does not grant the right to close, alter or build over a right of way in any way, even temporarily, this includes, for

example, a change in the surface, width or location. Nothing should be done to divert or stop up a public right of way without following the due legal process including confirmation of any order and the provision of any new path. In order to avoid delays this should be considered at an early opportunity. Further information about public rights of way and planning is available on our website.

If permission is granted, please include as footnotes in the decision notice:

The alignment, width, and condition of public rights of way providing for their safe and convenient use shall remain unaffected by the development unless otherwise agreed in writing by the Public Rights of Way Team.

Nothing in this decision notice shall be taken as granting consent for alterations to public rights of way without the due legal process being followed.

**PUBLIC HEALTH - 22nd February 2018**

Contaminated Land - no objection to this proposal

Air Quality - no objection to this proposal

Environmental Permitting - no objection to this proposal

Drainage - no objection to this proposal

Noise & other nuisances - no objection to this proposal

Housing Standards - No comments

Licensing - No Comments

Food Hygiene - Not applicable

Private Water Supplies - Not applicable

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

**DEVON, CORNWALL & DORSET POLICE - 19th February 2018**

Police have no comments at this time.

**NATURAL ENGLAND - 26th February 2018 - No comments**

**REPRESENTATIONS**

3 letters of objection had been received and are summarised as follows:

- Can't believe more traffic being put through village
- Takes 5-10 mins to pull out into Silver Street now in a morning
- Road quality is poor with lots of potholes
- Lots of nature along edges of field will be destroyed including 4 oaks
- Huge volume of construction traffic will have to come through village which is subject to a weight restriction
- Near a busy primary school and pre-school
- Dangerous junction at Gables Road/Meadow Park junction

**MATERIAL CONSIDERATIONS AND OBSERVATIONS**

The main issues in the determination of this application are:

- 1) Policy
- 2) Relationship to application 18/00175/MOUT earlier on the agenda
- 3) Highway safety
- 4) Other matters

### **1) Policy:**

The site is located outside but adjacent to the settlement limit. The application proposes an access from the road known as Meadow Park into land currently allocated in the Local Plan Review for 42 dwellings, but also seeks to provide access for the up to 125 dwellings proposed as part of application 18/00175/MOUT.

*Policy W11 states:*

*A site of 2.9 hectares at land east of M5, Willand, is allocated for residential development subject to the following:*

- a) 42 dwellings with 30% affordable housing;*
- b) Provision of buffer zone and appropriate planting to mitigate noise from the adjacent motorway;*
- c) Mitigation of any wildlife impact including protection of trees;*
- d) Transport assessment of capacity at the junction of Silver Street and Meadow Park; and*
- e) Retention and enhancement of the public right of way.*

*Supporting Paragraph 3.237 states: A Transport Assessment of the capacity of the junction of Silver Street and Meadow Park may result in a different number of dwellings from the number allocated. The current public footpath across the northern boundary of the site should be retained and enhanced.*

The application was submitted with a transport assessment which has been considered by DCC Highways and the public rights of way team at DCC have been consulted and have provided a response in relation to criteria e) above.

### **2) Relationship to application 18/00175/MOUT**

As set out above, this is an application for up to 125 dwellings. However, Members are advised that the application site for the 125 dwellings includes land which is allocated in the LPR for 42 dwellings and therefore this application must be considered on its own merits, as a means of providing access into the site to serve the allocation, even if the application for the 125 dwellings (18/00175/MOUT) has been refused or remains undetermined.

### **3) Highway safety**

The key material consideration in relation to this application is highway safety.

The Highway Authority has considered the transport assessment and is satisfied with its contents, figures and conclusions. The Highway Authority have taken into consideration the Parish Council's concerns over the survey data being outside school operating dates and the increase in activity around pick up and drop off. The proposed development of up to 125 dwellings will generate 28 movements in the Am peak turning left and less in the PM. They have advised that this represents 6% of the traffic along Silver Street in the Am peak in August and will be less than 6% with the anticipated increase in school traffic but they consider this is likely to be a negligible number.

The Highway Authority have advised that they have previously accepted the survey data in relation to the earlier application for 259 dwellings which was considered in detail at appeal and that it would be unreasonable not to do so for this application. Moreover they have highlighted that accident statistics show 3 slight accidents in the vicinity of the school, none of which were related to each other and no pattern of causation gives rise to a specific reason.

The Parish Council has raised the policy requirement for the improvement of the footways to

the village centre and the Highway Authority concur that they would wish to see the footway width widening to a minimum of 2.0m throughout. It is understood this will require land outside of the control of the Highway Authority but they are led to believe this is in the control of the District Council. The vegetation adjacent to the footway overgrows the existing footway and therefore they have advised that this should be cleared to the edge of footway and to a minimum height of 2.4m and maintained as such. To widen the path may require the removal of hedge and trees so further detailed drawings of these works are required by condition on the outline application considered earlier in this agenda.

The revised NPPF (para 109) does now permit development to be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety rather than the previous version which only be allowed applications to be refused on transport grounds where the residual cumulative impacts of development were 'severe' Despite this change, it is not considered that a refusal could be justified on highway safety grounds as it is not considered that there is an unacceptable impact.

#### **4) Other matters**

The Public Rights of Way team have advised on the need for more information in order to ensure that the public right of way is protected during the course of development and enhanced thereafter. To this end they have suggested 3 conditions which have been attached, together with an informative note. However, this application for an access does not cross the PROW and therefore any impact on the PROW will be dealt with via the related planning application for the development of the site which will affect the PROW. Accordingly, the suggested conditions have not been attached to this consent

The scheme for the provision of access does require the loss of some mature trees but the Tree Officer has visited the site and is satisfied that the location of the access is suitable and can be mitigated by additional planting. An Arboricultural Method Statement and Tree Protection Plan are required by condition. Criteria c) of policy WI1 is therefore considered to be complied with.

On this basis the application is recommended for approval.

#### **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. Insofar as it relates to this application, the proposed estate road, cycleways, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, road maintenance/vehicle overhang margins, embankments, visibility splays, accesses, and street furniture shall be constructed and laid out in accordance with details to be approved by the Local Planning Authority in writing before their construction begins. For this purpose, plans and sections indicating, as appropriate, the design, layout, levels, gradients, materials and method of construction shall be submitted to the Local Planning Authority.
4. No development shall take place until a surface water drainage scheme has been submitted to and approved in writing by the County Planning Authority. Unless it is demonstrated that it is unfeasible to do so, the scheme shall use appropriate

Sustainable Urban Drainage Systems. The drainage scheme shall be designed so that there is no increase in the rate of surface water runoff from the site resulting from the development and so that storm water flows are attenuated. The development shall be carried out in accordance with the approved scheme.

5. Provision shall be made for the installation and maintenance of a drainage system to ensure that no water from the permitted area flows onto the public right of way.
6. No development shall begin until an Arboricultural Method Statement and Tree Protection Plan, to include engineering details for any areas of no-dig construction, has been submitted to (with or in advance of the first Reserved Matters application) and approved in writing by the Local Planning Authority. The development shall be carried out in strict accordance with the approved details.

## **REASONS FOR CONDITIONS**

1. In accordance with the provisions of Section 51 of the Planning and Compulsory Purchase Act 2004.
2. For the avoidance of doubt and in the interests of proper planning.
3. To ensure that adequate information is available for the proper consideration of the detailed proposals.
4. To protect water quality and minimise flood risk in accordance with Flood Management Act.
5. In the interests of highway safety and safeguarding the local environment.
6. To ensure that the mature trees on site continue to contribute where possible to the character and appearance of the area

## **INFORMATIVES**

1. Rights of Way
  - The alignment, width, and condition of public rights of way providing for their safe and convenient use shall remain unaffected by the development unless otherwise agreed in writing by the Public Rights of Way Team.
  - Nothing in this decision notice shall be taken as granting consent for alterations to public rights of way without the due legal process being followed.

## **REASON FOR APPROVAL OF PERMISSION**

The application proposes an access from the road known as Meadow Park into land currently allocated in the Local Plan Review for 42 dwellings, but also seeks to provide access for the up to 125 dwellings proposed as part of application 18/00175/MOUT. The Highway Authority has considered the transport assessment and is satisfied with its contents, figures and conclusions subject to seeing the footway width widening to a minimum of 2.0m throughout. The scheme does require the loss of some mature trees but

the Local Planning Authority are satisfied that the location of the access is suitable and can be mitigated by additional planting. The criteria of policy W11 and NPPF is therefore considered to be complied with.

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. 18/00474/FULL

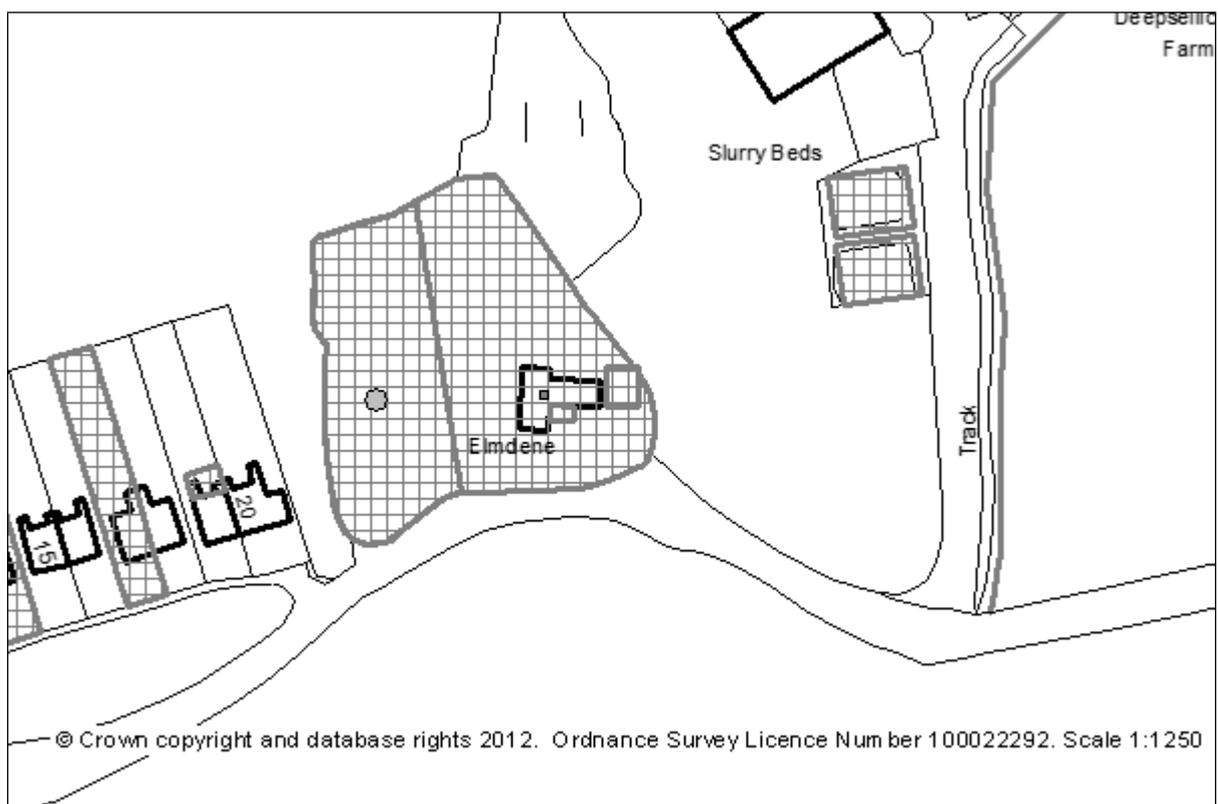
Grid Ref: 314249 : 113987

Applicant: Mr & Mrs Gooder

Location: Land West of Elmdene  
Hemyock  
Cullompton  
Devon

Proposal: Erection of 2 dwellings, alterations to existing access, and associated works

Date Valid: 5th April 2018



## **APPLICATION NO: 18/00474/FULL**

### **MEMBER CALL-IN**

**Councillor Rosamond has called-in this application to be determined by the planning committee for the following reasons:**

- 1. To consider the impact of the development on the AONB;**
- 2. To consider the sustainability of the site being located outside of the settlement of Hemyock.**

### **RECOMMENDATION**

Grant permission subject to conditions

### **PROPOSED DEVELOPMENT**

Erection of 2 dwellings, alterations to existing access, and associated works

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

Site location plan, proposed floor plans and elevation plans, tree report, wildlife survey, foul drainage assessment.

### **RELEVANT PLANNING HISTORY**

93/01286/FULL - PERMIT date 15th September 1993

Erection of garage

95/00769/FULL - PERMIT date 14th June 1995

Demolition of existing porch and erection of a conservatory.

06/00183/FULL - PERMIT date 14th March 2006

Erection of extension to west elevation and join garage to property with new pitched roof

### **DEVELOPMENT PLAN POLICIES**

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

COR18 - Countryside

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

AL/IN/3 – Public Open Space

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

DM2 – High quality design

DM8 – Parking

DM29 – Protected landscapes

### **CONSULTATIONS**

#### **HEMYOCK PARISH COUNCIL - 3<sup>rd</sup> May 2018**

The parish council is not content with this application and makes the following comments:- the application is outside the permitted development of Hemyock, there are issues with regard to the visibility onto the Highway, the location map does not take into account the extension of the west side of the bungalow Elm Dene in 2006, there are concerns with regard to the foul drainage, there is an existing septic tank and electric in the middle of the plot serving the bungalow Elm Dene, has this been taken into account? the dormer windows

are not in keeping and extend beyond the existing building line at the rear, there are 4 bedrooms shown on the plans but only 3 mentioned in the application, this is too much development both height and width for the size of the plot, the harm to the area outweighs any benefit.

7<sup>th</sup> June 2018

The parish council is not content with this application and makes the following comments:- There should be a full environmental/wildlife survey; there are serious concerns about the septic tank/soakaways. There is already an existing septic tank and electric in the middle of the plot serving the bungalow Elmdene, has this been taken into account? Can the site cope with any more dirty water? the application is outside the permitted development of Hemyock, there are issues with regard to the visibility onto the Highway, there are 4 bedrooms shown on the plans but only 3 mentioned in the application, this new revised scheme is even more development than before and is too much development both height and width for the size of the plot, the harm to the area outweighs any benefit. The council requests that if the officer is minded to recommend approval then the application is called in to committee.

10<sup>th</sup> July 2018

The pc is not content with the application and makes the following comments. It queries the effectiveness of the sewerage treatment plant and asks that the EA is fully consulted reference size of development, site and existing water course running through the wet site. The concerns the pc previously raised have not been addressed. It supports the comments made by the AONB Planning Officer. An unacceptable amount of trees would need to be felled for the development to take place which detracts from the site, area and location.

**PUBLIC HEALTH:** 14th June 2018

Contaminated Land - No objection to this proposal  
Air Quality - No objection to this proposal  
Environmental Permitting - No objection to this proposal  
Drainage - No objection to this proposal  
Noise & other nuisances - No objection to this proposal  
Housing Standards - No comment  
Licensing - NO comments  
Food Hygiene - Not applicable  
Private Water Supplies - Not applicable  
Health and Safety - No objection to this proposal enforced by HSE.

**WESTERN POWER:** 1st May 2018

Thank you for your letter dated 24th April concerning the above. I have looked at our network in the vicinity of the proposed dwellings and as they will no doubt be applying for new supplies should the development go ahead, a diversion of our overhead line would be necessary anyway as part of our design to provide those supplies.

**HIGHWAY AUTHORITY:** 19<sup>th</sup> June 2018

The Highway Authority has no objection subject to the conditioning of plan AC26/3D for parking, turning, and access with waiting bay. You may wish to place a visibility condition on the consent for 2.4m back along the centre line of the access and extending to a point on the nearside carriageway edge 25.m to the west and to the centre line of the road to the east with no obstruction greater than 600mm. I can also confirm that the additional traffic generated by the two dwellings would not be considered as severe under the guidance of NPPF. The applicant should be advised of the need to apply for a vehicle crossing licence from the Highway Authority.

**ENVIRONMENT AGENCY:** Operational development less than 1ha within Flood Zone 1. No consultation required. See surface water management good practice advice - see standard comment.

**BLACKDOWN HILLS AONB:** 18th June 2018

I write on behalf of the Blackdown Hills AONB Partnership having become aware of this application.

As you know, the primary purpose of the AONB designation is to conserve and enhance natural beauty, and national planning guidance advises that great weight should be given to conserving their landscape and scenic beauty. The AONB Partnership supports its local planning authorities in the application of their development management policy framework alongside national policy in this regard.

In support of this, the Blackdown Hills AONB Management Plan 2014-19 is the agreed policy framework for conserving and enhancing the AONB and seeks to ensure that all development affecting the AONB is of the highest quality. It contains the following policy of particular relevance to this proposal:

PD 1/B Seek to ensure that any necessary new developments or conversions within the AONB or affecting its setting conserve and enhance natural beauty and special qualities, particularly by respecting the area's landscape character and the local character of the built environment, reinforce local distinctiveness and seek to enhance biodiversity.

I note that the application material references recent appeal cases elsewhere in Mid Devon with regard to housing land supply, and so we highlight Footnote 9 of the NPPF relating to Paragraph 14 which indicates that there should be no automatic presumption in favour of development in this case due to the AONB designation.

While Millhayes is now essentially a cluster of modern housing development, historically the only houses here were associated with the milk factory. It is separate to the main village and being beyond the eastern extent of Lower Millhayes, this site is outside the settlement limit and not well related to the rest of the village. We consider that speculative development around the edge of settlements should be resisted and a plan led approach to development in villages ensures that impacts on the AONB can be properly considered. Beyond Lower Millhayes there is an immediate sense of being in the open countryside, and we are concerned that the introduction of these houses with associated driveways, entrances and a layby will be to the detriment of this country lane and the rural setting of this part of Hemyock.

Incidentally, references to the daily bus service, 20, passing on Station Road are noted in the application, however this service does not come further north than Castle Park/Hollingarh Way.

## **REPRESENTATIONS**

A total of 34 letters of objection has been received at the time of writing the report. The comments contained in those letters are summarised as follows:

1. Location of the proposed development outside of defined settlement limit;
2. Location of the site within the AONB and the proposals impact on the AONB;
3. Proximity of the site from nearby watercourses;
4. Potential flood risk impacts of the development;
5. Loss of trees and planting on the site;
6. Visual appearance of the development;
7. Highways impacts;

8. Traffic impacts resulting from the development;
9. Existing septic tank of neighbouring property (Elmdene) being located within the site;
10. Proximity to village facilities;
11. Proximity to public transport links;
12. Potential loss of wildlife and ecology;
13. Impact on neighbouring properties amenity;
14. Questions over the type of housing being contributed to the local housing stock.

## **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

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

- 1) Policy and procedure**
- 2) Dwelling sizes and layout of the dwellings**
- 3) Design and appearance**
- 4) Impact on street scene**
- 5) Impact on AONB**
- 6) Impact on neighbouring properties**
- 7) Bin storage**
- 8) Access**
- 9) Foul/ surface water disposal**
- 10) Public open space contribution**
- 11) Planning Balance**

### **1) Policy and procedure**

The site lies outside the settlement limit of Hemyock, in the open countryside and in the AONB. Hemyock itself forms one of the defined villages as set out in policy COR17 of the Mid Devon Local Plan Part 1 (Core Strategy) where small scale development within the settlement limit of Hemyock is given in principle support due to the villages being considered appropriate based on their physical characteristics, and the availability of a school, shop, pub and daily public transport service but the application site itself is considered to be in open countryside and subject to national and local rural constraint policies.

The Council does not presently have a five year supply of deliverable housing land and therefore paragraph 11 of the recently updated National Planning Policy Framework and DM1 of Local Plan Part 3 are engaged. The tilted balance in paragraph 11 requires the LPA to consider whether any adverse impacts of granting consent would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole. This balance is therefore undertaken at the end of this report. The site lies within the AONB where policy DM29 seeks to protect the natural beauty and character of the area.

### **2) Dwelling sizes and layout of the dwellings**

The Technical Housing Standards- nationally described space standard published in March 2015 by the Department of Communities and Local Government deals with internal space within new dwellings. It sets out requirements of the Gross Internal (floor) Area of new dwellings at a defined level of occupancy as well as floor areas and dimensions for key parts of the home, notably bedrooms, storage and floor to ceiling height. The standard requires that a dwelling with 2 or more bedrooms has at least one double (or twin) bedroom, one double of which should be at least 2.75m wide, with all other double rooms being at least 2.55m wide. In order to meet the standard, double rooms must have a floor area of at least 11.5sqm and single rooms must have a floor area of at least 7.5sqm. In addition, single rooms should be at least 2.15m wide.

As the dwelling is to be 2 storey 4 bed dwelling large enough to enable 4 double bedrooms the standard requires that the dwelling has a minimum gross internal floor area of 125sqm with at least 3 sqm of built-in storage. The submitted plans meet this standard.

### **3) Design and appearance**

The two dwellings are proposed as detached 2 storey dwellings with pyramid type roof structures. Each of the dwellings has an internal garage which could be used either for parking of vehicles or for storage purposes. The dwelling on the Eastern side of the site closest to Elmdene has been set back into the plot further so as to limit any impacts such as loss of privacy or overbearing impact. There is sufficient space within the site to provide reasonable sized gardens for each of the properties. The dwellings are fairly large in scale and as such it is considered necessary to remove permitted development rights for the proposed dwellings to limit further extensions and expansion of the dwellings. It is recognised that the outlook for occupants of Elmdene will be a different one to the current arrangement, the proposed arrangement is considered to respect the amenity of occupiers of Elmdene.

In terms of the proposed appearance of the two new dwellings, the following material palette is proposed: rendered walls, Redland 50 double roman roofing tile in breckland brown, and white UPVC windows and doors all of which are in keeping with other properties in the area. Further it is considered that the design and appearance of the proposed dwellings respects the existing design and appearance of adjacent neighbouring properties.

### **4) Impact on street scene**

The site lies on the edge of Lower Millhayes which forms part of the Northern part of the settlement of Hemyock separated by the Southern part of Hemyock by the river Culm. The site forms part of the former garden of one of the existing properties along Lower Millhayes known as Elmdene. The properties in the vicinity are characterised by a row of 6 pairs of two-storey semi-detached dwellings to the West of the site (these properties are within the settlement limit of Hemyock). To the East of the site is a single bungalow known as Elmdene (this property together with the application site is outside of the settlement limit of Hemyock). Land to the North and South is defined as agricultural land characterised by open fields. All properties along Lower Millhayes are set back from the road. The application site is currently consists of hedging on 3 sides with a timber fence separating the site from the garden of Elmdene to the East. The site is largely overgrown with a variety of self-seeded trees and shrubs with largely some more notably species also.

In order to construct the proposed access to the site a large section of the hedge to the front of the site will need to be removed to achieve access and good visibility from the site. The submitted tree report identifies a number of trees within the site which are worthy of being retained in the proposed development. Details showing which of the trees are to be retained on the site have been provided. It is considered that sufficient planting on the site is to be retained to support biodiversity on the site and to soften the visual impact on the development on the street scene.

It is considered that the proposed development would constitute 'infill development' being located between the row of semi-detached properties to the West of the site and the bungalow of Elmdene to the East of the site. It is considered that Elmdene acts as a natural finish to the village before the road bends round the corner and goes into open countryside. While it is recognised that the proposal will remove a large section of hedge to facilitate the access and the view of this part of Hemyock will be different to the existing arrangement, the resulting impact would not be significantly harmful to the street scene or its setting within the

AONB as the impact is minimal with limited wider impact. As such the proposal is considered to comply with policy DM2 and DM29 of the Mid Devon Local Plan part 3 (Development Management Policies).

#### **5) Impact on AONB**

It is not considered that the proposal detracts from the AONB. The area is characterised by a linear form of residential development along Lower Millhayes with a single bungalow acting as the stopper to the village and a further two dwellings in this location cannot be said to harm the wider AONB.

#### **6) Impact on neighbouring properties**

The site itself formed at one time part of the former garden of Elmdene which was then separated and is now in separate ownership. The LPA need to consider the living conditions of the occupiers of that property in the future as well as that of the occupiers of the adjacent proposed property in relation to existing neighbouring properties. The proposed dwelling to the East of the site sits further back within the plot adjacent to Elmdene. The property has been set back so as not to cause excess overshadowing on Elmdene and to limit any potential overbearing impact based on a two storey dwelling sitting adjacent to the bungalow. On this basis, it is not considered that the proposed dwelling will impact on the amenities of adjacent properties to such an extent as to warrant a refusal.

#### **7) Bin storage**

The Refuse Storage for New Residential Properties Supplementary Planning Document adopted in February 2017 provides guidance on the design of waste and recycling storage in new residential developments across Mid Devon.

For detached properties, an area of hardstanding should be provided in the back garden for storage of two standard 240 litre wheeled bins per property, in addition to two 55 litre recycling boxes. This equates to at least 1.2 x 1.2m for each dwelling. If levels of the site restrict access to the rear, a bin store to the front of the property should be provided (this also applies if the distance required to pull out the bins for collection exceeds 25 metres). Paths leading from the bin storage area to the road for collection should be at least 650mm wide and tarmacked or covered with a smooth durable surface to facilitate wheeling the bin.

#### **8) Access**

The application proposes a new access off the unclassified road. The Highway Authority have been informally and formally consulted on the submitted plans and have advised that they have no objection subject to the conditioning of plan AC26/3D for parking, turning, and access with waiting bay. It has been suggested that a condition could be imposed requiring a visibility splay for 2.4m back along the centre line of the access and extending to a point on the nearside carriageway edge 25m to the west and to the centre line of the road to the east with no obstruction greater than 600mm. It was also confirmed by the Highway Authority that additional traffic generated by the two dwellings would not be considered as severe under the guidance of NPPF.

#### **9) Foul/ surface water disposal**

Foul sewage is to be disposed of via connection to a new treatment plant on the site. The proposed new treatment plant is proposed to serve the two new properties as well as Elmdene. Elmdene currently has a septic tank on the application site which would need to be relocated. Surface water is to be disposed of via soakaway.

## **10) Public open space contribution**

Policy AL/IN/3 of the Allocations and Infrastructure Development Plan Document states that new housing developments will provide at least 60 square metres of equipped and landscaped public open space per market dwelling, to include children's play areas, sports areas, informal open space and allotments in appropriate proportions, with safe and convenient access on foot or cycle. Due to the size of this site it is more appropriate for open space to be located off the site. In this circumstance contributions from development will be sought per dwelling based on the normal cost of providing public open space elsewhere. A financial contribution of £2884 towards providing drainage at Longmead Sports Fields, Hemyock has been paid.

## **11) Planning Balance**

Positive benefits of the development include the provision of two dwellings, funding towards Public Open Space improvements and the New Homes Bonus. The site is well located to other dwellings which are located within the settlement limit of Hemyock. The proposal is considered to be acceptable in that, in accordance with the provisions of paragraph 11 of the National Planning Policy Framework, the benefits of provision of dwellings that respects the existing development pattern of development along Lower Millhayes, acting as infill development and has no unacceptable impact on highway safety, visual amenity and the amenity of neighbouring residents, are considered to outweigh the harm caused by the provision of two new dwellings in a countryside location outside of the defined settlement limit of Hemyock.

## **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. During the construction period, no work shall take place on site or deliveries made to the site outside the daily hours of between 8.00am and 6.00pm on Mondays to Fridays, 9.00am to 1.00pm on Saturdays, and no work or deliveries shall take place on Sundays and Bank/Public Holidays.
4. The dwelling hereby permitted shall not be occupied until the site access has been hardened and surfaced for a distance of not less than 6.00 metres back from its junction with the public highway, and drained so that no water drains onto the public highway. Thereafter the site access shall be permanently so retained and maintained.
5. The dwelling hereby permitted shall not be occupied until the proposed parking, turning and access with waiting bay has been constructed.
6. The dwelling hereby permitted shall not be occupied until a visibility splay measuring 2.4m back along the centre line of the access and extending to a point on the nearside carriageway edge 25m to the west and to the centre line of the road to the east shall be provided with no obstruction greater than 600mm in either direction. Once provided, such visibility splays shall be permanently so retained and maintained for that purpose.

7. Notwithstanding the provisions of Article 3 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) no development of the types referred to in Classes A, B, C of Part 1 of Schedule 2 or Class A of Part 2 of Schedule 2, relating to the enlargement, improvement or other alteration of a dwellinghouse, additions or other alterations to the roof of a dwellinghouse and the erection of gates, fences, walls or other means of enclosure shall be undertaken within the application site without the Local Planning Authority first granting planning permission.

## **REASONS FOR CONDITIONS**

1. In accordance with 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 the amenities of neighbouring residents.
4. To prevent mud and other debris being carried onto the public highway, in accordance with Policy DM2 of the Mid Devon Local Plan Part 3 (Development management Policies).
5. To ensure that sufficient parking and turning space is provided within the site for the intended use of the site in accordance with policies DM2 and DM8 of the Mid Devon Local Plan part 3 (Development Management Policies).
6. To provide adequate visibility from and of emerging vehicles, in accordance with Policy DM2 of the Mid Devon Local Plan Part 3 (Development Management Policies).
7. To safeguard the [visual amenities of the area] [character and appearance of the area] [residential amenities of the area] [residential amenity of neighbouring residents] in accordance with policy DM2 of the Mid Devon Local Plan part 3 (Development Management Policies).

## **INFORMATIVES**

1. The applicant is advised of the need to apply for a vehicle crossing licence from the Highway Authority at DCC before commencing development.

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

The proposal is considered to be acceptable in that, in accordance with the provisions of paragraph 11 of the National Planning Policy Framework, the benefits of provision of two new dwellings that respect the existing development pattern of development along Lower Millhayes and has no unacceptable impact on highway safety, visual amenity and the amenity of neighbouring residents, are considered to outweigh the harm caused by a new dwelling in this countryside location outside of the defined settlement limit of Hemyock.

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. 18/00657/FULL

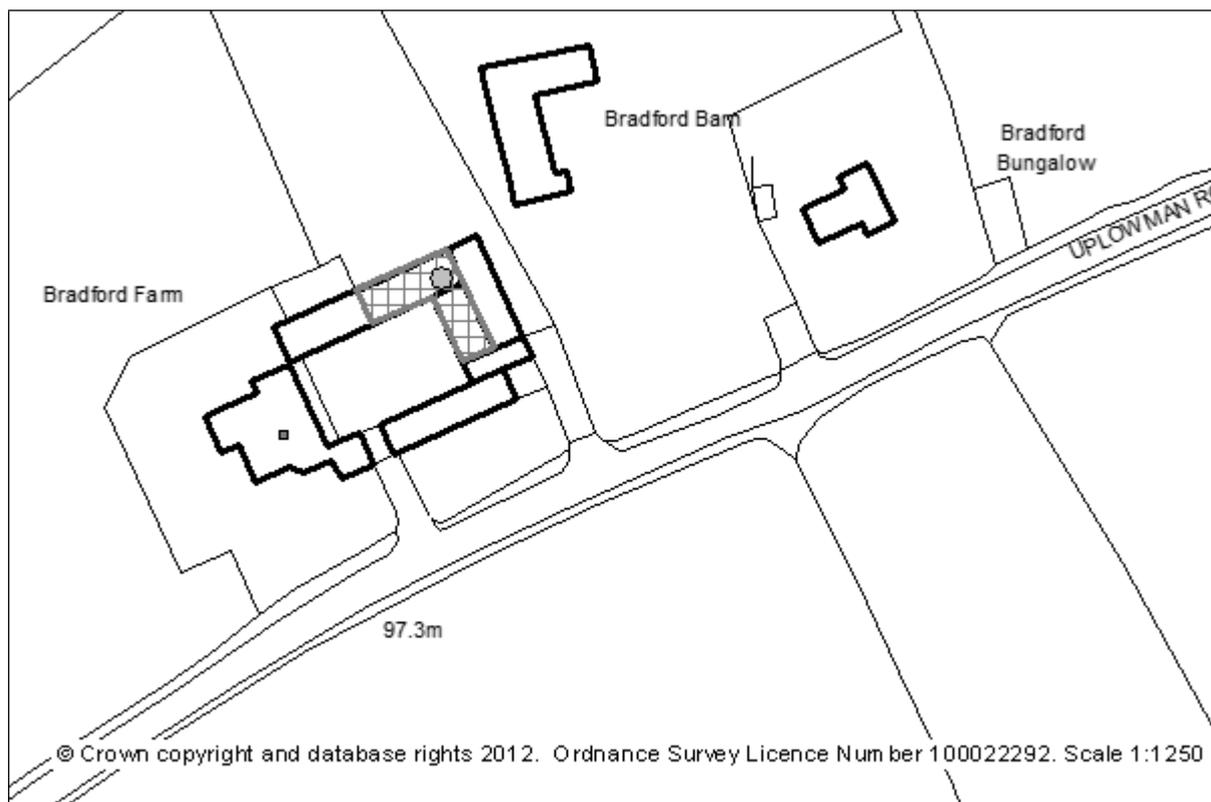
Grid Ref: 299312 : 114301

Applicant: Mr Andy Fields

Location: Bradford Farm  
Uplowman  
Tiverton  
Devon

Proposal: Retention of change of use of an existing agricultural building to office with parking

Date Valid: 3rd May 2018



## **APPLICATION NO: 18/00657/FULL**

### **MEMBER CALL-IN**

The Ward Member Cllr Neal Davey has requested that this application be determined by Planning Committee for the following reason:

- To consider whether the development has an adverse impact on the residents of a neighbouring property.

### **RECOMMENDATION**

Grant permission subject to conditions

### **PROPOSED DEVELOPMENT**

The applicant seeks planning permission for the retention of change of use of an existing agricultural building to office with parking at Bradford Farm, Uplowman, Tiverton. The existing layout of buildings at Bradford Farm is such that the existing agricultural buildings are located to the east side of the existing dwelling and form a central courtyard and it is the north east corner section of the agricultural building which forms the application site with this area of building having been converted into office accommodation although not currently occupied. The new windows are white painted timber frames with double glazing that have integrated strips between the panes of glass to divide the window into squares and the doors are timber painted black. The car park area to the rear is to be covered with 20mm Chard Chippings.

The office space is outlined as a prospective expansion of the applicant's business interests namely an internet based sales and the marketing team of Animal Herbal Health Ltd. It has been noted that the numbers of employees is not expected to exceed 15 and the hours of operation would be restricted to the normal office times of 8.00am to 5.00pm with some Saturday mornings.

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

Completed Application Form  
Site Location Plan  
Block Plan  
Floor Plans and Elevations  
Section Plans  
Supporting Photographs

### **RELEVANT PLANNING HISTORY**

00/01037/FULL - PERMIT date 31st January 2001  
Conversion of barn to dwelling (amended scheme to that approved for unit 4 under planning permission reference number 4/52/94/536)

94/00536/FULL - PERMIT date 3rd November 1995  
Conversion of redundant farm buildings into four dwellings and formation of new access

94/02187/FULL - PERMIT date 26th January 1995  
Erection of two storey extension comprising of sitting room, bedroom and bathroom

## **DEVELOPMENT PLAN POLICIES**

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

COR1 – Sustainable Communities  
COR2 – Local Distinctiveness  
COR4 – Meeting Employment Needs  
COR8 – Infrastructure Provision  
COR9 – Access  
COR12 – Development Focus  
COR18 – Countryside

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

DM1 – Presumption in favour of sustainable development  
DM2 – High Quality Design  
DM3 – Sustainable design  
DM8 – Parking  
DM11 – Conversion of rural buildings  
DM20 – Rural Employment Development

National Planning Policy Framework

## **CONSULTATIONS**

**TIVERTON TOWN COUNCIL** – 7th June 2018 - Support

**HIGHWAY AUTHORITY:** 22nd May 2018 - Standing advice applies please see Devon County Council document <http://www.devon.gov.uk/highways-standingadvice.pdf>

The Local Highway Authority has informally advised that they would have no objection with this proposal given the existing access arrangements for the site, level of parking available at the premises and scale and nature of the use.

**ENVIRONMENTAL HEALTH** – 25th May 2018

Contaminated land - No objection  
Air quality - No objection  
Environmental permitting - No objection  
Drainage - No objection  
Noise and other nuisances - No objection  
Housing standards - No comment  
Licensing - No comment  
Food hygiene - N/A  
Private water supplies - No comments  
Health and safety - No objection - enforced by HSE

**ENVIRONMENT AGENCY** - Operation development less than 1ha. Flood zone 1 - No consultation required.

## **REPRESENTATIONS**

At the time of writing this report, one letter of objection has been received from the occupiers of the neighbouring property of Bradford Barn with the objections being summarised as follows:

1. Mains drains are not available to the 3 properties at Bradford.

2. The proposed highways entrance is for farm vehicles only and will only be suitable for farm vehicles because of lack of visibility.
3. There are no structural survey drawings.
4. No proposed hours of work for commercial use.
5. No wildlife survey

Confirmation has been received that one additional letter of objection is expected from a Planning Consultant acting on behalf of the neighbour and therefore Members of the Planning Committee will be updated once this response has been received. However, it is understood that the concerns relate to:

- Need for this office accommodation
- Enquiry as to why office parking could not take place within the existing courtyard area instead of the north east of the agricultural building
- The change in character of the land to the rear of the site and unauthorised activities currently being undertaken at Bradford Farm.

## **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

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

- 1. Policy and procedure**
- 2. Need for the development**
- 3. Highway matters**
- 4. Design of the works and the impact on the character of the area**
- 5. Impact on amenity of occupiers of residential property**
- 6. Other planning matters**

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

This planning application follows an enforcement investigation relating to authorised works with the outcome being the submission of this application seeking planning permission for the retention of the change of use of an existing agricultural building to office with parking at Bradford Farm. 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 July 2018, 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. The adopted Core Strategy seeks to guide development to provide sustainable development and sustainable communities and protecting the countryside under COR18. Policies COR1 and DM1 aim to enhance the self-sufficiency of communities through being able to provide access to jobs which bring economic prosperity and to reduce the need to travel by car. Policy COR4 sets out the level of employment development required up until 2026. The supporting text emphasises that the aim of employment provision is to enhance the economic self-sufficiency of the district as a whole. Policy DM11 allows the conversion of rural buildings to employment uses subject to meeting certain criteria and Policy DM20 allows for new businesses/expansion of existing businesses provided that the development is of an appropriate use and scale for its countryside location. To be allowed under this policy, the development should not lead to an unacceptable adverse impact on the local road network, should not have an unacceptable adverse impact to the character and appearance of the

countryside and there are insufficient suitable sites or premises in the immediate area to meet the needs of the proposal.

In addition to the above, the NPPF indicates at paragraph 80 that 'Planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.'

With respect to supporting a prosperous rural economy, paragraph 83 states that 'Planning policies and decisions should enable:

- a) the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings;
- b) the development and diversification of agricultural and other land-based rural businesses;'

In terms of the relevant policy criteria, the main issues for assessment are considered to be those relating to the need for the development including the availability of other site/premises in the immediate area, highway matters through any impact on the surrounding highway network, the overall design of the building, impact on the character of the countryside and impact on amenity of occupiers of neighbouring residential properties. These matters and other planning considerations are considered further below.

## **2. Need for the development**

As far as the need for the office space is concerned, the applicant's agent has stated that the applicant's business is expected to take on the available office space. It has been confirmed that the number of employees can be strictly controlled and is directly related to the applicant's home (which is also Bradford Farm) with the overall numbers of employees not expected to exceed 15 and the hours of operation would be restricted to the normal office timetable of 8.00 to 5.00 with some Saturday mornings. A condition has been recommended relating to the use and hours of operation.

The applicant's agent has commented that they have investigated the available office space and no suitable spaces were found within the local area. A search carried out by officers identifies the nearest office accommodation to let being located within the settlement limits of Tiverton and therefore not considered to be within the immediate area to the application site. Therefore the change of use would be in accordance with Policy DM20 if it is considered that the development will not lead to unacceptable impact on the local road network and would not result in an unacceptable adverse impact on the character and character of the countryside, both being matters which are considered later within this report.

## **3. Highway Matters**

With respect to highway matters, an objection has been received on the ground that the proposed highways entrance is for farm vehicles only and will only be suitable because of lack of visibility. However, the Local Highway Authority has raised no objection stating that standing advice should be used but through informal discussions with the Highway officer following receipt of concerns from a neighbour, the Highway Officer informs that the Local Highway Authority would have no objection with this proposal given the existing access arrangements for the site, level of parking available at the premises and scale and nature of the use.

In respect to the existing business being run by the applicant at Bradford Farm and that proposed within the new office space, the applicant has outlined that there are to be no visiting members of the public. A condition has been recommended to restrict the use to

office within Use Class B1(a) only to ensure this is the case. The parking provision outlined on plan and area available is more than sufficient to accommodate the employee levels specified. As such, in highway safety terms the proposal is considered to be acceptable meeting policy DM8 of the Mid Devon Development Management Policies (Local Plan Part 3).

Another objection received enquires as to why the parking provision for the office accommodation created could not take place within the existing courtyard rather than through the creation of the new parking area to the rear. However this courtyard area is used for parking by the occupiers at Bradford Farmhouse and their family and therefore it is intended for employees of the office accommodation to be kept separate, which also gives more flexibility for the office accommodation in the future.

#### **4. Design of the works and the impact on the character of the area**

Works are retrospective with the existing agricultural building having been converted internally into office accommodation with a parking area created to the rear with the car park area to be covered with 20mm Chard Chippings. New windows are white painted timber frames with double glazing that have integrated strips between the panes of glass to divide the window into squares and the doors are timber painted black. Given the position of the building being converted, the main elevational changes are located either towards the rear of the site or within the courtyard area and therefore there are only limited views from public vantage points to the proposal. To the north and west of Bradford Farm are fields and to the east is the neighbouring property of Bradford Barn.

The proposed conversion works utilises existing openings within the agricultural buildings with only a few new openings in the main walls introduced towards the rear of the site with roof lights installed for the first floor accommodation. Therefore the overall character of the barn complex is not considered to have altered significantly to the detriment of the area. Policy DM11 relating to the conversion of rural buildings contains one criterion being that the building is capable of being converted without significant alteration, extension or rebuilding and one objection comments that no survey was carried out, but on this point, the works are retrospective having been carried out and are not considered to have resulted in significant alteration, extension or rebuilding in line with policy.

The main change on site relating to this application has been made through the creation of the car park area from agricultural land although the access into this area from the side of the buildings has always existed. It is noted that there are other matters raised by objections such as the siting of a temporary shipping container but these do not form part of the application and are being dealt with separately through enforcement investigations. On balance, it is considered that the works comply with DM2 (High quality design) of the Local Plan part 3 (Development Management Policies).

#### **5. Impact on amenity of occupiers of residential property**

Given the isolated position of Bradford Farm within a countryside location, there is only one residential property in close proximity of the site being Bradford Barn to the east which is orientated in such a way that the rear of the property faces onto the application site. The consideration is to whether the proposal results in a significant detrimental impact on the amenity of occupiers of neighbouring property. There is a fence and existing hedge along the eastern boundary of the application site with the parking area created for the office accommodation being located on land adjacent the neighbouring property.

The Environmental Health Department has not raised any objection to the proposal in terms of noise generation or other disturbance given the scale and nature of the use. However, in

order to help protect amenity to the occupier of the neighbouring property, the plans submitted show the planting of a new beech hedgerow along the boundary with the neighbouring property to provide more of a buffer than the current boundary treatment and a condition is recommended that in the event of an approval, this should be implemented within the first planting season. Two windows have been installed in the side elevation serving the store area as shown on the submitted plan. Whilst this faces the access and existing hedgerow along the boundary, in order to provide more privacy, it is considered that these windows should have obscure glazing and a condition is recommended to achieve this.

With respect to the office use, conditions are recommended to restrict the office to use class B1(a) which is different to office accommodation within an A2 Use Class which has visiting members of the public. A condition is also recommended for the hours of operation to be 8am to 6pm Monday to Friday and 8am to 13.00pm on a Saturday which are standard office hours to ensure adequate amenity is offered to the occupiers of the neighbouring property outside of business hours.

Therefore subject to these conditions it is not considered that there would be significant noise or other disturbance as a result of this development with the consideration made that the proposal will not significantly affect the amenity of any nearby residential properties in accordance with Policy DM2.

## **6. Other planning matters**

In regard to other planning matters, with respect to ecology, as referred to within the title the proposal is for the retention of office space. Evidence has been provided that the applicant has installed a number of bird boxes within the courtyard area and the applicant's agent comments that a survey was carried out when the owners purchased the property and no protected species were noted. The applicant is aware that there is existing legislation relating to the safeguarding of protected species.

Concerns have been received on the ground that there is no mains drainage serving existing dwellings in this location, but it is considered that where any new septic tank or package treatment plant is required (which is likely to be the subject of an EA Permit application), there is ample space within the site to position one with the site being within flood zone 1. Additional details have been requested in respect to foul drainage arrangements whereby Members will be updated at Planning Committee. With respect to the above, it is considered that the proposals could comply with Policy COR11 of the Core Strategy and DM2 of the Mid Devon Development Management Policies (Local Plan Part 3).

As explained earlier within the considerations part of this report this planning application was a result of an enforcement investigation. Concerns have been raised to a new rear extension to the rear of another section of the agricultural building and the siting of a shipping container to the rear with fencing erected which could have resulted in hedgerow being removed. These matters do not form part of this planning application and are being dealt with separately via an enforcement investigation.

## **CONDITIONS**

1. The date of commencement of this development shall be taken as 3rd May 2018, the date the application was registered by the Local Planning Authority.
2. The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice.
3. The change of use of hereby approved within the application site shall be used for office accommodation within Use Class B1(a) and for no other purpose (including any purpose in Class B1 of the Schedule to The Town and Country Planning (Use Classes) Order 1987 (as amended)), or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification.
4. The use hereby permitted shall not be operated outside of the hours of 08:00 to 18:00 Monday to Friday and 0800 to 13:00 Saturday and shall not be operated on Sundays and Bank Holidays.
5. The office accommodation hereby permitted shall not be first occupied until the parking and turning facilities shown on the approved plans have been provided in accordance with the approved block plan, drawing number 18-2263-002B. Once provided, such facilities shall be permanently so retained and maintained.
6. Within one month of the date of this planning permission, details of the planting specification for the Beech hedgerow as shown on the approved block plan, drawing number 18-2263-002B shall be submitted to and approved in writing by the Local Planning Authority. The approved beech hedgerow shall be implemented within the first planting season following occupation of the office accommodation hereby approved and retained thereafter. Any trees or plants forming part of the proposed hedgerow which, within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species.
7. Prior to occupation of the office accommodation hereby approved the windows in the east elevation serving the storage area as shown on the ground floor plan, drawing no. 18-2263-023A shall be glazed with translucent (obscure) glass and shall be so retained as such thereafter.

## **REASONS FOR CONDITIONS**

1. In order to establish a legal commencement date for the development to enable the development to be monitored by the Local Planning Authority.
2. For the avoidance of doubt in the interests of proper planning.
3. The proposed change of use is in a location where alternative uses may be unacceptable and potentially cause adverse impacts on the occupiers of neighbouring property and this needs to be restricted in accordance with Policy DM2 and DM20 of the Local Plan part 3 (Development Management Policies).
4. To safeguard the amenity of nearby residential properties in accordance with Policy DM2 of the Local Plan Part 3 (Development Management Policies).

5. To ensure appropriate facilities are provided for traffic attracted to the site in accordance with policy DM8 of the Mid Devon Local Plan Part 3 (Development Management Policies).
6. To safeguard the amenity levels enjoyed by the occupiers of the neighbouring dwelling in accordance with policy DM2 of the Mid Devon Local Plan Part 3 (Development Management Policies).
7. To protect the privacy of the occupiers of the neighbouring dwelling in accordance with policy DM2 of the Mid Devon Local Plan Part 3 (Development Management Policies).

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

With significant weight placed on the need to support economic growth, together with the overall design and appearance of the works undertaken and the relative distance between this site and the nearby neighbouring residential property, it has been concluded that subject to the imposition of conditions, there would not be a significant detrimental impact on the living conditions of any occupants of nearby residential properties and the visual amenity of the locality would not be harmed as a result of the proposal to an extent that would justify withholding planning permission. The scale and nature of the business use and the associated works are considered to result in less than substantial harm to the character and appearance of the landscape and it is not considered that the proposal would result in any significant adverse environmental or highway impacts. Having regard to all material considerations the application is in accordance with the requirements of policies COR2 and COR18 of the Mid Devon Core Strategy; policies DM1, DM2, DM8, DM11 and DM20 of the Mid Devon 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. 18/00745/FULL

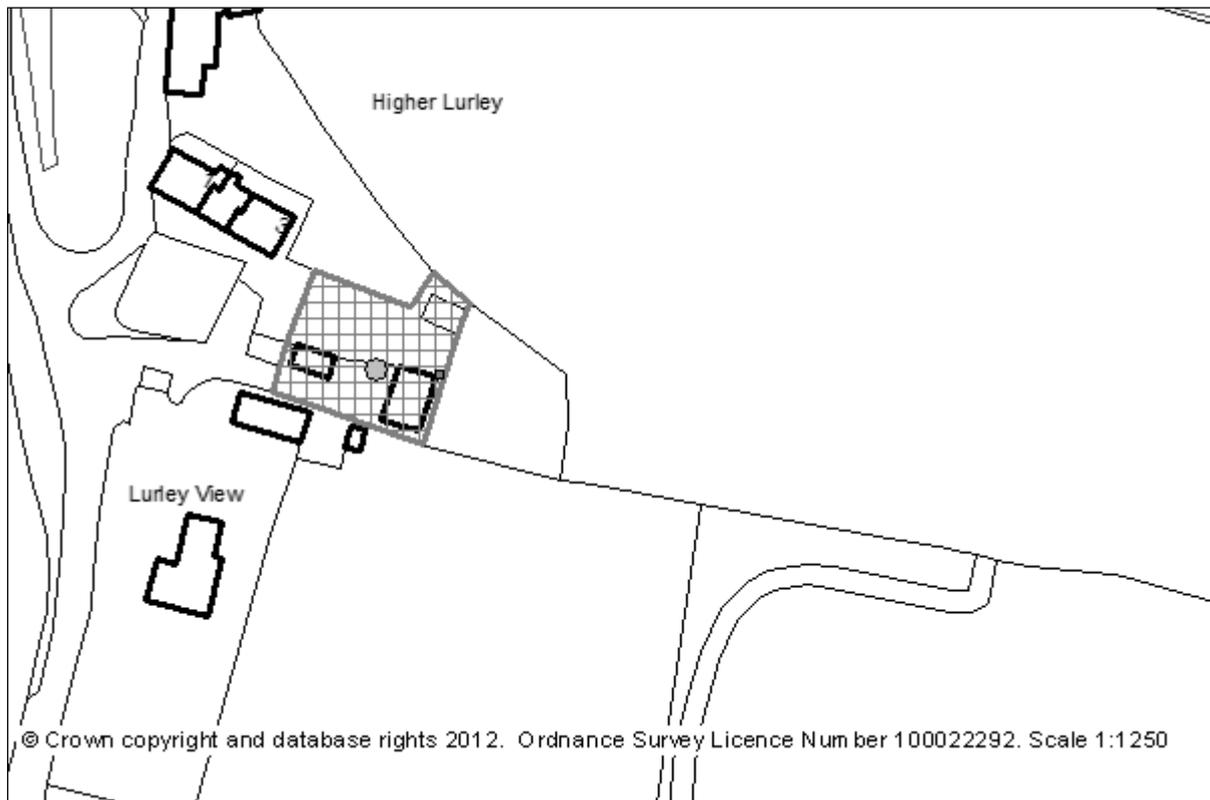
Grid Ref: 292495 : 115092

Applicant: Mr Ian Tapp

Location: Land and Buildings at NGR 295495 115092 (Adjacent to Lurley Cottage)  
Lurley  
Devon

Proposal: Erection of dwelling following demolition of existing shed

Date Valid: 15th May 2018



**APPLICATION NO: 18/00745/FULL**

## **MEMBER CALL-IN**

**Cllr Dolley has called this application to be determined by the planning committee for the following reason:**

**To consider whether or not the provision of a dwelling in this location is sustainable.**

## **RECOMMENDATION**

Refuse permission

## **PROPOSED DEVELOPMENT**

Erection of detached two storey dwelling and associated parking and garden on land currently used for garden/amenity which has a number of out buildings upon it. This application is seeking open market housing.

## **APPLICANT'S SUPPORTING INFORMATION**

Application form, site location, site levels, floor plans and elevations (proposed).  
Wildlife and Geology Trigger Table  
Photographs  
Foul Drainage Assessment Form (FDA1)  
Design and Access Statement

## **RELEVANT PLANNING HISTORY**

89/00687/OUT - REFUSE date 7th June 1989  
Outline for the erection of a dwelling  
89/01579/OUT - REFUSE date 4th September 1989  
Outline for the erection of a dwelling APPEAL DISMISSED

## **DEVELOPMENT PLAN POLICIES**

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

COR1 Sustainable Communities  
COR2 Local Distinctiveness  
COR3 Meeting Housing Needs  
COR7 Previously Developed Land  
COR8 Infrastructure Provision  
COR9 Access  
COR11 Flooding  
COR12 Development Focus  
COR18 Countryside

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

AL/IN/3 Public Open Space

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

DM1 Presumption in favour of sustainable development  
DM2 High Quality Design

DM3 Sustainable Design  
DM8 Parking  
DM14 Design of Housing  
DM15 Dwelling sizes

## **CONSULTATIONS**

**TIVERTON TOWN COUNCIL** - 07 Jun 2018 - Support

**HIGHWAY AUTHORITY** - 07 Jun 2018

Standing advice applies please see Devon County Council document  
<http://www.devon.gov.uk/highways-standingadvice.pdf>

**PUBLIC HEALTH** - 05 Jun 2018

Contaminated Land: No objections to this proposal

Air Quality: No objection to this proposal

Environmental Permitting: No objection to this proposal

Drainage: No objections to this proposal

Noise & other nuisances: No objections to this proposal

Housing Standards: No comment

Licensing: No comments

Food Hygiene: Not applicable

Private Water Supplies: If a private supply is to be used. The supply must not be used until the Local Authority (Mid Devon District Council) is satisfied that the supply does not constitute a potential danger to human health.

Health and Safety: No objection to proposal enforced by HSE.

Informative: There is a foreseeable risk of asbestos being present in the structure. Please review the information in this link, so you are aware of the hazards, risks and your legal obligations with asbestos <http://www.hse.gov.uk/asbestos/> . If asbestos may be present a Refurbishment and Demolition Survey following HSG264 available at <http://www.hse.gov.uk/pUbns/priced/hsg264.pdf> should be carried out before work commences to identify precautions and legal requirements enforced by Health and Safety Executive.

**ENVIRONMENT AGENCY:** - 21 May 2018 - Operational development less than 1ha within Flood Zone 1 - No consultation required.

## **REPRESENTATIONS**

No representations received at the time of writing

## **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

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

- 1. Policy**
- 2. Previously developed land**
- 3. S106 obligations;**
- 4. Other issues raised**
- 5. The planning balance**

### **1. Policy**

The Mid Devon Core Strategy 2007, in its Policy COR1, sets the distribution of new development to meet sustainability objectives; with Policy COR12 concentrating development principally on the 3 main towns. Outside the main town areas, developments

are to be limited to those which support rural uses. Policy COR2 seeks to ensure development that will 'sustain the distinctive quality, character and diversity of Mid Devon's environmental assets', particularly through requiring high quality sustainable design which will reinforce the character and legibility of its built environment. The site is outside any settlement limit boundary and is therefore considered to be in the open countryside in planning terms, where restrictive policies apply.

Policy COR18 seeks to restrict new development in the countryside. It sets out the types of development which are considered to be acceptable in principal and this does not include new open market dwellings. The proposal is therefore considered to be contrary to policy COR18.

In view of the above and have regard to what the NPPF states, the issue then is whether there are material considerations that would justify the development despite this conflict with the development plan.

At appeal in 2016 the Authority was found not to be able to demonstrate a 5 year housing land supply and in the interim, that position has not changed substantially. The NPPF advises at paragraph 11 that where a five year land supply of deliverable housing sites cannot be demonstrated, policies on housing supply should not be considered up to date. This includes settlement limits identifying areas which are countryside and those which are within defined settlements.

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

Paragraph 11 of the NPPF states that where development plan policies are considered to be out of date, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the NPPF as a whole or specific policies in the NPPF indicate development should be restricted. Housing applications need therefore to be considered in the context of sustainable development, unless specific policies indicate development should be restricted. The site does not fall within one of the restrictions set out in Footnote 6 of the NPPF.

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

The application scheme would lead to the provision of a new dwelling in the countryside, which would in most circumstances be contrary to the policies of restraint in the Development Plan. The hamlet of Higher Lurley comprises little more than handful of properties. Lurley itself appears to be a mixture of farm complexes and dwellings which have been erected incrementally over the passage of time. Lurley is within a strongly rural setting (other than the A361 to the north) and is not readily perceived on the ground as an identifiable settlement. The surrounding countryside is strongly rural and characterised by a gently undulating patchwork of fields, much of which appeared to be actively used for agriculture.

Paragraph 78 indicates that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Where

there are groups of smaller settlements, development in one village may support services in a village nearby. Neither the adopted or proposed Development Plan documents propose new development at Lurley or Calverleigh. Lurley itself has no local services and Calverleigh appears to have a village hall and church only. Therefore, the creation of a single dwellinghouse in Lurley is unlikely to support these very limited local services. The potential use of home delivery grocery shopping services from supermarkets in Tiverton (there is no evidence that more local shops would provide this service), would be of no benefit to the existing services in the local rural community.

Paragraph 79 indicates that planning decisions should avoid development of isolated homes in the countryside unless one or more circumstances apply. In this case there is no evidence that there are special circumstances that would justify the development on the basis of a claimed essential need. None of the other circumstances apply in this instance.

Therefore, there are no material considerations that would outweigh the conflict of the development with Policy COR1, COR12, the limited weight given to COR18 and national planning policies.

## **2 Previously developed land**

The application site is within the same ownership as 2 Higher Lurley Cottage. However it is physically separated from it. The application site slopes downwards from the summerhouse towards fields beyond. It is nestled within the rising topography and bounded on most sides by urban fencing

A workshop, summerhouse and garage are located within the site generally and the proposed dwelling is to be located on the site of the workshop.

Annex 2 of the NPPF defines previously developed land (PDL) as, *“Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes: land that is or was last occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill, where provision for restoration has been made through development management procedures; land in built-up areas such as residential gardens, parks, recreation grounds and allotments; and land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape.”*

As a starting point, this application proposes development within the curtilage of an existing permanent structure (the workshop).

However, the site is physically separated from 2 Higher Lurley Cottage and its immediate plot. It is therefore not readily visually connected with it. There is furthermore no formal planning history confirming that the site is lawfully used as residential land, other than the 1989 planning application forms indicating its use as such. Therefore, notwithstanding the rural setting of the site, your officers are not satisfied that it may accurately be considered as previously developed land.

The High Court in March 2017 held that that the term ‘previously developed land’ as defined by the glossary forming part of the NPPF does include private residential gardens in an area that is not built-up. Whilst appreciating that the application site sits in a group of 5 dwellings some 300m to the north of the larger grouping of dwellings at Lurley, your officers do not consider that the site sits in a built up area.

In any event this finding is not determinative, because paragraph 118 of the NPPF requires that planning decisions should give substantial weight to the value of using suitable brownfield land within settlements (our emphasis) for homes and promote and support the development of under-utilised land and buildings especially if this would help to meet identified needs for housing where land supply is constrained. However, the NPPF also (at paragraph 170) indicates that planning decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside. This is pertinent in the three dimensions of sustainable development which should not be considered in isolation.

Therefore, even if the garden was to be considered as PDL, the planning balance carried out as a measure of sustainable development later in this report, indicates that planning permission should not be granted.

### **3 S106 obligations**

As this application is recommended for refusal, a POS contribution has not been sought from the applicant. In the event of an appeal against the issue of a refusal, the LPA reserve the right to seek such a contribution (£1,442) which would be allocated to an identified public open space project within the local area.

### **4 Other issues raised**

The means of access effectively utilises the existing access from the unclassified road which is subject to a 30mph speed limit outside the site. Being on the inside of a bend and a short distance from the brow of the hill to the north, and on the outside of a bend from the south, the existing access provides adequate views of oncoming traffic at these speeds. Whilst the previous Appeal Inspector raised concern with the rural nature of the approach roads, he was not of the opinion that this concern on its own warranted the dismissal of the appeal. In the same light, for the reasons above the proposed development would not be harmful to the safety and convenience of road users and any additional impact on the highway network by the creation of this additional unit.

It appears that the current access is used to access the parking area of the host property. However, the D&A does not make it clear that any part of the proposed plot will provide what may be replacement parking for 2 Higher Lurley Cottages. The application forms indicate the retention of 5 parking spaces, but the plans do not indicate where. The LPA do not recognise garage spaces as being available for the parking of vehicles and, whilst there would appear to be sufficient open air parking for the proposed dwelling, the detail of the parking and the replacement parking and manoeuvring space is absent. On this basis, your officers cannot be comforted that the proposal provides for sufficient parking space for both the proposed dwelling and the host dwelling, conflicting with policies DM8 and DM14, and policy COR9.

The application involves the demolition of an existing building but is not accompanied by a Wildlife Report to confirm the presence or absence of any noted wildlife within the existing building. The applicant indicates that, despite the building being unused, there is no evidence of the presence of any protected species. However, your officers are unclear how qualified this assessment is. In the absence of such a report, officers cannot be comforted that the proposed development does not have an adverse impact on protected species, contrary to policy DM2.

Policies DM14 and DM15 seek to ensure that dwellings have an appropriate size and minimum level of amenity to suit its location etc. Since the publication of the dwelling size

policy, the Government have produced national dwelling size guidance which supersedes this policy. The layout for the dwelling is considered acceptable and to deliver habitable accommodation which exceeds the space requirements established by the national standards.

It is not considered that the development would have an adverse impact on any adjacent residential occupiers. The dwellings to the south west and north west are sufficiently far enough away so as to not be affected by the proposed development. Overall, the application will not cause harm to the privacy or amenity of any neighbouring property and the application therefore meets with policies COR2, DM2 and DM14 in this respect.

Policy DM14 (e) requires that private amenity space should reflect the size, location, floorspace and orientation of the property. Subject to clarification of the parking/turning areas required for the proposed dwelling and perhaps that of 2 Higher Lurley Cottage, it is possible that the residual amenity area for the proposed development is acceptable.

## **5 Planning Balance**

The NPPF sets a strong emphasis on the delivery of sustainable development. Fundamental to the social role is supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations. The NPPF is clear that delivering sufficient housing is a key consideration for Local Authorities. It is acknowledged that the Council is presently unable to demonstrate that it has a 5 year supply of housing land and relevant policies for the supply of housing must be considered out of date. However the relevance of the absence of a 5year land supply here is largely that the proposal would make an incremental numerical contribution to housing stock, rather than in terms of appropriateness.

The NPPF sets out that in order to achieve sustainable development, economic, social and environmental gains should be sought jointly and simultaneously. A new open market home in this location would entail some social and economic benefits in supporting jobs during construction and as future occupants would make use of services and facilities in the wider area. Officers also note the financial implications of the proposal with reference to the New Homes Bonus, and that the proposal has attracted some local support.

However the social and economic benefits of one new home would inevitably be modest. Moreover the support for delivering new homes in the NPPF is not at the expense of ensuring that all dwellings are appropriately located. Consequently the clear harm arising in respect of this case, considered together, would significantly and demonstrably outweigh the benefits of the proposal, as shown below.

The site falls within open countryside. Similarly, on account of the nature of its surroundings and remoteness from services and facilities, notwithstanding the small scattering of buildings comprising Lurley, the application site may fairly be described as isolated within the terms of paragraph 79 of the NPPF.

In March 2018, the Court of Appeal clarified the use of the term "isolated dwelling" (used at that time in paragraph 55 and used now in relation to paragraph 79). It held that has held that it means:

*"... a dwelling that is physically separate or remote from a settlement. Whether a proposed new dwelling is, or is not, 'isolated' in this sense will be a matter of fact and planning judgment for the decision-maker in the particular circumstances of the case in hand" at [31].*

*"Whether, in a particular case, a group of dwellings constitutes a settlement, or a 'village', for the purposes of the policy will again be a matter of fact and planning judgment for the decision-maker" at [32]*

Policy COR18 establishes only certain types of development are permissible in the open countryside, of which new open market housing is not expressly one. The Council has been mindful of the current lack of 5 year supply of housing land and has given Policy COR18 appropriately restricted weight in the planning balance. However, paragraph 79 of the new NPPF (2018), a significant material consideration in the determination of this application sets out that new isolated homes in the countryside should be avoided other than in special circumstances; the development proposed would represent none of the special circumstances identified in that paragraph.

Policies COR2 'Local Distinctiveness', DM2 'High Quality Design' and DM14 'Design of Housing' seek to ensure that development respects landscape character and otherwise integrates appropriately with its surroundings. The NPPF sets out that planning should recognise the intrinsic character and beauty of the countryside and that it is appropriate to reinforce local distinctiveness.

Whilst acknowledging that opportunities to maximise the use of sustainable modes of transport will vary from urban to rural areas, the NPPF nonetheless sets out that planning should actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling. The avoidance of environmental harm resulting from private vehicular use to access services and facilities is an underlying aim common also to the spatial approach in the local plan.

Lurley itself has no local services and Calverleigh appears to have a village hall and church only. Therefore, the creation of a single dwellinghouse in Lurley is unlikely to support these very limited local services.

Other than a village hall and church in Calverleigh, the nearest services and facilities catering for the majority of day-to-day needs are beyond a convenient walking distance from the site (Tiverton is some 4.5km from the site). Moreover the nature of the route that must be taken to such is unwelcoming to pedestrians or cyclists, being at least in part along winding, narrow and unlit rural lanes without dedicated footways (particularly during inclement weather or outside of daylight hours).

Officers acknowledge that residents' need to travel might be reduced, to a degree, by the growing propensity for homeworking, and online grocery shopping. Nevertheless, it is likely that the proposal would lead to the overwhelming majority of trips to and from the site, for work, shopping, or other purposes, being undertaken by private car in a way that would not accord with the focus in the Framework on securing radical reductions in greenhouse gases. This reliance would not be meaningfully reduced by the community bus service which offers scheduled route trips each Tuesday and Friday from Oakford to Tiverton via Lurley and Calverleigh. Indeed, the locational characteristics of the site would have harmful social implications too, particularly for those who do not run a car.

Therefore, the provision of a single dwelling would provide a minor social benefit. There would also be an economic benefit though the construction and subsequent maintenance of the dwelling. Turning to the environmental dimension of sustainable development, it is clear that the Framework seeks to promote the reuse of brownfield land. As a core planning principle, it is far better to bring forward development on acceptable brownfield land than build on undeveloped green fields. However, in this instance, the brownfield land is not acceptable. It is unlikely that one dwelling would also enhance and maintain the vitality of this rural community by supporting services in a nearby village, which can be accessed by

public transport. Officers acknowledge the personal circumstances submitted by the applicant but disregarding the conflict with the Development Plan would undermine the planned system and cause a loss of confidence in it. Personal circumstances can only rarely outweigh policy based decisions.

For the above reasons, the application site is not an appropriate location for the development proposed. The proposal is not in accordance with relevant elements of LP policy COR1, COR2, COR9, DM2, or paragraph 79 or 170 of the NPPF, and would result in an uplift in private vehicular usage and environment harm (notwithstanding that the harm arising from one dwelling would be relatively modest).

In addition, officers cannot be satisfied that the proposed development complies with Policy DM8 or DM14 in regard to the provision of car parking for both the proposed and host dwelling. Your officers cannot be satisfied that the proposed development complies with Policy DM2 and the NPPF in regard to minimising impacts on and providing net gains for biodiversity.

The applicant has not made appropriate provisions to satisfactorily mitigate against the need to provide a contribution towards public open space. On this basis, the recommendation is one of refusal.

## **REASONS FOR REFUSAL**

1. The NPPF sets out that in order to achieve sustainable development, economic, social and environmental gains should be sought jointly and simultaneously. A new open market home in this location would entail some social and economic benefits. However, the Local Planning Authority consider that the environmental harm arising from the proposed development outweighs these benefits. In drawing this conclusion, the Local Planning Authority have considered the remote location of this brownfield land and the environmental harm resulting from private vehicular use to access services and facilities, together with local policies which seek to ensure that development respects landscape character and otherwise integrates appropriately with its surroundings, reflecting the NPPF aim that planning should recognise the intrinsic character and beauty of the countryside and that it is appropriate to reinforce local distinctiveness. Therefore the proposed development is not in accordance with policies Mid Devon Core Strategy COR1, COR2, COR9 and Mid Devon Local Plan part 3 (Development Management Policies) DM2, DM14 or paragraphs 79 and 170 of the NPPF.
2. The application involves the demolition of an existing building but is not accompanied by a Wildlife Report to confirm the presence or absence of any noted wildlife within the existing building. The applicant indicates that, despite the building being unused, there is no evidence of the presence of any protected species. However, the Local Planning Authority are unclear how qualified this assessment is. In the absence of such a report, the Local Planning Authority cannot be comforted that the proposed development does not have an adverse impact on protected species, contrary to policy DM2.
3. In the absence of the detail of the parking and manoeuvring space for the proposed dwelling and any replacement parking for the host dwelling, the Local Planning Authority cannot be comforted that the proposal provides for sufficient parking space for both properties, conflicting with policies DM8 and DM14, and policy COR9.
4. The provision of an additional dwelling results in additional demand from occupiers for amenity and recreational provision. The application proposal does not include a

contribution towards the provision or improvement of public open space in the locality. The development is therefore contrary to Policy AL/IN/3 of the Allocations and Infrastructure Development Plan (Local Plan Part 2) and Supplementary Planning Document "The Provision and Funding of Open Space through Development (May 2008)".

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



## Appeal Decision

Hearing held on 3 - 4 October 2017

Site visit made on 4 October 2017

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

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

**Decision date: 03 November 2017**

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

**Land off Silver Street, Willand, Devon**

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

1. The appeal is dismissed.

### Procedural Matters

2. The application is in outline with only access to be considered at this stage. However, the application documents include a Concept Masterplan that identifies how the development might be laid out. It was agreed by the parties at the Hearing that this provides illustrative material only and I have treated it as such in my determination of the appeal.
3. A suite of planning obligations by way of Unilateral Undertakings (UUs) was submitted prior to the Hearing. However, also at the Hearing, the need for minor amendments was brought to my attention in respect of the proposed village entry signage. Following a round-table discussion, it was concluded by the parties and with which I am satisfied, that no such amendments in relation to this matter are necessary. However, amendments remained to be made to one of the UUs and I agreed with the parties a defined period of time after the close of the Hearing within which they were to address this matter and provide a final signed version of the relevant UU. I now have an executed set of planning obligations before me. Together, they make provision for affordable housing, on-site public open space, sustainable travel, education, healthcare, transport and highways.
4. It is common ground between the parties that the Council cannot currently demonstrate a 5 year supply of deliverable housing sites (the five-year housing land supply (HLS)) and that having regard to paragraph 49 of the National Planning Policy Framework (the Framework), the tilted balance contained within Framework Paragraph 14 therefore applies.

## Background and Main Issues

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

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

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

## Reasons

### *Planning policy*

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

will be permitted in these areas. The broad objective of the policy is to enhance the character, appearance and biodiversity of the countryside by focussing growth in the market towns to reinforce their social and economic role and enhance self-sufficiency. Based on all that has been put to me, I am satisfied that these two policies are relevant to my considerations in this appeal and I have therefore taken them into account in reaching my decision.

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

*Location of housing and scale of development*

12. The site comprises agricultural land located immediately to the south west of the built up area of Willand, which is recognised as a 'Village' in CS policy COR 17.
13. In my view, it is reasonable to conclude that there is a vast gulf between the scale of development proposed and what the development plan envisages for villages such as Willand as expressed in CS policy COR 17. I therefore consider the proposal to be in conflict with this policy.
14. The proposal would provide a substantial development of market housing and although there would also be an affordable housing element, this would be as a percentage of the total number of dwellings and there is no evidence before me that it would relate to an identified local need. Accordingly, the appeal scheme would not meet any of the criteria set out in policy COR 18 and therefore conflicts with it.
15. It is common ground between the parties that there would be some albeit minor harm to the local landscape<sup>1</sup>. The site would sit between the M5 and Silver Street and it is reasonably well-screened in most of the available views although there are areas along Silver Street and Meadow Park, where there are more open views. The proposed development would clearly change the character of this part of the countryside and the dwellings would have some presence in the available views although this could be mitigated by the use of planning condition. Overall, I agree with the parties that there would be only minor harm to the character and appearance of the countryside.
16. As part of its Local Plan review, the Council has allocated land for development on part of the appeal site, which demonstrates a clear recognition that in order to meet its aspirations for housing growth, not all development can take place within the existing built confines of settlements. Given the current stage of the Plan's preparation I do not consider that its policies can be given any more than limited weight in this appeal. However, the general approach of allocating a site to accommodate a modest number of dwellings in Willand accords with the broad principles of the CS and the Framework in seeking to ensure the

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<sup>1</sup> Statement of Common Ground paragraph 7.13

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

17. The proposal would very substantially increase the size of Willand. Within the village, there are a number of dispersed services and facilities. However, taking into account the existing size of the settlement, they represent a somewhat basic and modest level of provision.
18. I have had regard to the findings of the Inspector in his decision<sup>2</sup> (HD3) relating to a scheme for 30 dwellings in Uffculme. The Inspector refers to the number of shops and services within that settlement and it seems clear to me that there are about the same number as in Willand. The Inspector considered the proposed 3% growth in Uffculme would be unlikely to undermine social cohesion in the village. However, the scale of development proposed in this appeal would represent a very significantly greater level of growth relating to a settlement with no greater level of services and facilities.
19. Although the appeal scheme proposes to contribute financially towards education and healthcare facilities in Willand, there would be no corresponding increase in the number of other services and facilities. I recognise that the existing businesses would not necessarily be harmed economically but the scale of the development would be at odds with the Council's strategy for locating the majority of new housing in and around the larger settlements in Mid Devon. For these reasons, the proposal conflicts with CS policies COR 1 and COR 12.

#### *Highway network*

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

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<sup>2</sup> APP/Y1138/W/17/3178479

- 12,000 sqm commercial allocation at Venn Farm set out in the emerging Local Plan (eLP).
24. Improvements to junction 28 are proposed as part of the emerging East of Cullompton allocation. The Council argues that until these improvements have been implemented, there is insufficient capacity at the junction to cope with the additional traffic that it considers the appeal scheme would generate. However, even when taking account of all the above commercial allocations, their combined area still falls well below the initial modelled effects based on 40,000 sqm. The Council has allocated part of the appeal site for 42 dwellings. Taking this from the proposed number of 259 dwellings, it gives a residual increase of 217 dwellings over and above that allocation.
  25. The survey work<sup>3</sup> carried out by DCC revealed a significant queuing delay along Station Road with traffic queuing back from junction 28 to the High Street/Station Road junction. At the Hearing the Council accepted that the number of vehicles associated with committed development would be in the region of 48 per hour representing about a 5% increase. The proposed development is predicted to add a further 32 vehicles per hour.
  26. It is clear from the connections between the roads that lead from the appeal site into Cullompton that the obvious and logical route for drivers would be initially to head south along Silver Street/B3181 before turning left into Millennium Way. The available evidence indicates that based on the number of vehicles generated, there would be about 1 additional vehicle adding to the back of any queue along Millennium Way every two minutes.
  27. Accordingly, in order for any delays in journey times not to worsen, there would need to be a corresponding movement of vehicles from Millennium Way onto Station Road. This would rely upon two main factors in my view. Firstly, there would need to be sufficient opportunity for vehicles to turn left from Millennium Way into Station Road at its roundabout junction and secondly, the cycle time of the signalised junction at the southbound on and off-slip roads of junction 28 would need to be adequate to ensure traffic flowed without backing up.
  28. I was able to make my site visit early in the morning and took the opportunity to travel to Cullompton to assess the volume and flow of traffic during the AM peak travel period. I observed that although traffic was queuing for much of the way along Station Road from the roundabout at the top of the northbound on and off-slip roads at junction 28, it was not backed up all the way to the junction with High Street and was moving steadily. There was also a steady flow of traffic between the roundabout and traffic light controlled junctions at the junction 28 slip roads and no clear signs of unacceptable delay.
  29. This corroborates the evidence<sup>4</sup> of DCC's highways officer that because the traffic light junction operates under the MOVA system, the queue of traffic only extends as far back as the nearby roundabout once every ten cycles. At my site visit, this seemed to me to be adequate in ensuring a modestly paced but nonetheless steady flow of traffic along Station Road and Millennium Way towards junction 28.

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<sup>3</sup> Cullompton Queue Length Monitoring June 2016 (included as Appendix K of the appellant's Transport Statement of Case ref W15243\_Ap\_01\_C, which in turn forms Appendix 1 to the appellants main Statement of Case).

<sup>4</sup> Appendix 3 of DCC's Statement of Case (actually titled 'Proof of Evidence')

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

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

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

#### *Planning obligations*

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

#### **Other Matter**

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

#### **Planning Balance**

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

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

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

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

## **Conclusion**

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

*Hayden Baugh-Jones*

Inspector



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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 21st March 2018 that with the exception of small scale proposals, applications for ground mounted solar PV arrays recommended for approval be brought before the Committee for determination.

Item No.	Weeks	TARGET DATE	REFVAL	PROPOSAL	LOCATION	NAME	Expected Decision Level	
							Delegated	Committee
1	2	07/11/2018	18/01224/MFUL	Construction of roof over slurry pit (1129sqm)	Land and Buildings at NGR 269678 109033 Hawkridge Farm Coldridge Devon	Miss Helen Govier	DEL	
2	2	07/11/2018	18/01280/MFUL	Erection of a roof over existing silage pit (1318 sqm)	Land and Buildings at NGR 269682 109011 (Hawkridge Farm) Coldridge Devon	Miss Helen Govier	DEL	
3	2	02/11/2018	18/01249/MOUT	Outline for the erection of 30 dwellings and formation of access	Land at NGR 313136 113327 South of Culmstock Road Hemyock Devon	Ms Naomi Morgan	DEL	
	5	12/10/2018	18/00964/MOUT	Outline for the erection of 15 dwellings, access, and associated works	Land at NGR 306177 116745 (Moor Lane) Westleigh Devon	Mr Daniel Rance	COMM	COMM
	6	09/10/2018	18/01091/MOUT	Outline for the erection of up to 10 dwellings including alterations to existing vehicular and pedestrian access	Land at NGR 300172 112650 West of Fishers Way Pethertons Halberton Devon	Mrs Alison Fish	DEL	
6	8	26/09/2018	18/00915/MFUL	Erection of Lidl food store (Class A1) and non-food unit (Class A1) with associated parking, landscaping and access arrangements following demolition of existing buildings	Foundry Estate Blundells Road Tiverton Devon	Mr Adrian Devereaux	COMM	COMM
7	8	27/09/2018	18/00978/MFUL	Construction of 2 linked detention basins and outfall swale with below ground pipe work and boundary fence to implement the surface water drainage strategy to serve the development consented under Planning Permission 14/00881/MOUT	Land at NGR 297768 112843 West Manley Lane Tiverton Devon	Mrs Christie McCombe	DEL	
8	10	10/09/2018	18/00936/MARM	Reserved Matters for the erection of 40 dwellings, formation of 64 space car park to service Copplestone Railway Station, public open space, vehicular access from Shambles Drive, pedestrian links and associated infrastructure following Outline approval 16/01888/MOUT	Land at NGR 276566 103177 (Old Abattoir Site) Shambles Drive Copplestone Devon	Miss Helen Govier	DEL	

<i>Item</i>							<i>Expected Decision Level</i>	
<i>No.</i>	<i>Weeks</i>	<i>TARGET DATE</i>	<i>REFVAL</i>	<i>PROPOSAL</i>	<i>LOCATION</i>	<i>NAME</i>	<i>Delegated</i>	<i>Committee</i>
9	12	30/08/2018	18/00678/MFUL	Erection of an agricultural cow cubicle building (1124sqm)	Lower Whipcott Holcombe Rogus Devon TA21 0NA	Mr Daniel Rance	DEL	
10	12	29/08/2018	18/00786/MOUT	Outline for the erection of up to 65 dwellings, public open space, ancillary works and associated infrastructure, including access	Land at NGR 282727 100936 Higher Road Crediton Devon	Joanne Halton	COMM	COMM
11	16	01/08/2018	18/00680/MFUL	Extension and re-landscaping of car park, and alterations to hole 10 fairway and hole 12 tee and fairway	Land at NGR 284947 98978 (Downes Crediton Golf Course) Hookway Devon	Mr Simon Trafford	DEL	DEL
12	17	25/07/2018	18/00662/MFUL	Erection of an industrial building (B1/B2/B8 use) and provision of additional parking	Hartnoll Business Centre Hartnoll Farm Tiverton Devon EX16 4NG	Mr Daniel Rance	COMM	COMM
13	19	12/07/2018	17/02061/MFUL	Remodelling and modernisation of existing garden centre following demolition of existing structures, to include erection of retail areas, cafe, and warehouse, formation of new vehicular access, provision of parking areas, and landscaping	Crediton Garden Centre Barnstaple Cross Crediton Devon EX17 2ER	Mr Simon Trafford	COMM	COMM
14	19	12/07/2018	18/00518/MFUL	Erection of 40 dwellings, conversion of barns to 7 dwellings, formation of new accesses and car parking areas, with associated works including access and landscaping	Halberton Court Farm High Street Halberton Tiverton Devon EX16 7AW	Mr Daniel Rance	DEL	COMM
15	21	27/06/2018	18/00504/MOUT	Outline for the erection of 6 dwellings	Land at NGR 307538 116626 (North of Town Farm) Burlescombe Devon	Mr Adrian Devereaux	COMM	COMM
16	21	27/06/2018	18/00414/MFUL	Erection of extension to brewery to include alterations to provide additional restaurant/bar floorspace, amended entrance arrangements and outdoor dining area, and erection of 11 holiday lodges	Yellow Hammer Brewing Limited Hanlons Brewery Hill Farm Newton St Cyres Devon	Miss Helen Govier	COMM	COMM
17	26	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
18	29	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 Uplowman Road Tiverton Devon	Mrs Christie McCombe	COMM	COMM

<i>Item No.</i>	<i>Weeks</i>	<i>TARGET DATE</i>	<i>REFVAL</i>	<i>PROPOSAL</i>	<i>LOCATION</i>	<i>NAME</i>	<i>Expected Decision Level</i>	
							<i>Delegated</i>	<i>Committee</i>
19	29	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
20	30	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
21	33	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
22	44	17/01/2018	17/01660/MOUT	Outline for the erection of 10 dwellings	Land at NGR 287219 106314 Barnshill Close Cheriton Fitzpaine Devon	Mr Simon Trafford	COMM	COMM
23	50	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
24	53	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
25	55	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
26	57	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
27	61	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

<i>Item No.</i>	<i>Weeks</i>	<i>TARGET DATE</i>	<i>REFVAL</i>	<i>PROPOSAL</i>	<i>LOCATION</i>	<i>NAME</i>	<i>Expected Decision Level</i>	
							<i>Delegated</i>	<i>Committee</i>
28	76	05/06/2017	17/00348/MOUT	Residential development of up to 257 dwellings and upto 5 Gypsy and Traveller pitches; 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
29	92	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
30	94	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

# LIST OF APPEAL DECISIONS FROM

Application No	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
17/01476/FULL	Removal of condition (g) of planning permission 87/00530/OUT relating to agricultural tie	Venbridge Farm Cheriton Bishop Exeter EX6 6HD	Refuse permission	Delegated Decision	Refuse permission	Informal Hearing	Appeal Dismissed
<b>Summary of Inspectors Comments</b>							
17/01504/FULL	Erection of a dwelling and construction of new vehicular access following demolition of skittle alley, garage and store	Land and Buildings at Mare & Foal The Village Yeoford Crediton Devon EX17 5JD	Refuse permission	Committee Decision	Refuse permission	Written Representations	Application Withdrawn

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