

# Public Document Pack

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**PLEASE NOTE:** Members of the public wishing to speak to a planning application are requested to contact the Committee Administrator before the meeting starts.

## MID DEVON DISTRICT COUNCIL

### PLANNING COMMITTEE

**A MEETING** of the **PLANNING COMMITTEE** will be held in the Phoenix Chamber, Phoenix House, Tiverton on Wednesday, 31 October 2018 at 2.15 pm

The next ordinary meeting of the Committee will take place on Wednesday, 5 December 2018 at 2.15 pm in the Phoenix Chamber, Phoenix House, Tiverton

#### **STEPHEN WALFORD**

Chief Executive  
23 October 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 5 - 26*)  
Members to consider whether to approve the minutes as a correct record of the meeting held on 3 October 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 27 - 64*)  
To consider the planning applications contained in the list.
- 8      **MAJOR APPLICATIONS WITH NO DECISION** (*Pages 65 - 68*)  
List attached for consideration of major applications and potential site visits.
- 9      **APPEAL DECISIONS** (*Pages 69 - 70*)  
To receive for information a list of recent appeal decisions.
- 10     **TREE PRESERVATION ORDER 18/00004/TPO - 24 HAWTHORN CLOSE, CULLOMPTON** (*Pages 71 - 76*)  
To consider a report of the Head of Planning, Economy and Regeneration regarding this Tree Preservation Order.
- 11     **PLANNING PERFORMANCE AGAINST TARGETS QUARTER ONE 1ST APRIL - 30TH JUNE 18/19 & QUARTER TWO 1ST JULY - 30TH SEPTEMBER 2018** (*Pages 77 - 82*)  
To consider a report of the Head of Planning, Economy and Regeneration regarding performance targets.

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

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

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

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

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

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

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Public Wi-Fi is available in all meeting rooms.

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## MID DEVON DISTRICT COUNCIL

**MINUTES** of a **MEETING** of the **PLANNING COMMITTEE** held on 3 October 2018 at 2.15 pm

### **Present**

#### **Councillors**

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

### **Apologies**

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

Mrs H Bainbridge and Mrs C Collis

### **Also Present**

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

D R Coren, R J Dolley and C R Slade

### **Present**

#### **Officers:**

Kathryn Tebbey (Group Manager for Legal Services and Monitoring Officer), Simon Trafford (Area Team Leader), Alison Fish (Area Team Leader), Adrian Devereaux (Principal Planning Officer), Ian Sorenson (Devon County Council, Highway Authority) and Sally Gabriel (Member Services Manager)

## 59 **APOLOGIES AND SUBSTITUTE MEMBERS**

Apologies were received from Cllr Mrs H Bainbridge to be substituted by Cllr R B Evans and Cllr Mrs C A Collis to be substituted by Cllr Mrs C P Daw.

## 60 **PUBLIC QUESTION TIME (00-02-31)**

Mr Blackmore speaking in relation to item 2 on the Plans List, Bradford Farm, Uplowman, Tiverton, asked whether the Council was confident that the conditions put forward as part of the officers recommendation will be properly enforced if they are breached? If the 'hours of work' condition is breached on a Bank Holiday, how long will it take for the enforcement section to investigate? Conditions 4,5,6,7 and 8 all need to be monitored closely. With regard to condition 8 does that mean they can use whatever foul drainage system they want for 6 months before they have put in a proper system? Seems to be a daft condition as it is a retrospective application, shouldn't the details and its installation be required immediately?

Cllr Warren (Willand Parish Council) referring to Item 10 and 11 (Meadow Park/Lane, Willand) on the agenda stated: In paragraph 1.1 of the officer report members are reminded that it is the comments of the inspectors which are relevant and not the fact that they dismissed the appeals. With that in mind are the comments in paragraph

2.2 really addressing the members concern as to 'The size and scale of the proposal and the impact on the character of the village.'?

There are more issues than those addressed by the officer. 125 houses is more than the 42 planned for over the period of the plan and please remember the 35 affordable which are being built now and were not to be in the emerging plan. It is not just about the look but cumulative impact on facilities and infrastructure which will not be improved. Are officers attempting to 'water down' reasons given by members in an attempt to make it less likely to be able to defend an appeal? If officers keep recommending approval of these major and other developments in villages contrary to the Local Plan Review is it not calling into question considerable areas of the plan housing provision before it has even been fully examined?

Why have officers not recommended citing the fact that approval of this application would be in breach of policies COR 17 and COR 18? Even taking into account the lack of 5 year land supply issue and the limited weight that can be given to them they still have some relevance and have been considered as relevant by two inspectors in recent appeals in the village.

For the 259 dwellings application the Inspector makes reference to one or both of these policies in paragraphs 10, 12, 13 and 51. He considered them to be relevant and the proposal was in conflict with the policy. Why have officers left out reference to conflict with COR 12 when the inspector clearly identified the earlier proposal as being in conflict with it?

In his response to the Esso site application the inspector refers to either/or policies COR 17 and COR 18 in paragraphs 16 and 17 and identifies conflict. Are members really convinced that the suggested one reason for refusal in paragraph 3.1 of the report is detailed and robust enough to withstand any future appeal?

Cllr Grantham (Willand Parish Council) referring to Item 10 and 11 (Meadow Park/Lane, Willand) on the agenda stated:

On page 90 under recommendations subject to S106 obligations items g) and h) contributions are to be made to aid two parish supported projects. Quote 'the monies are to be paid to MDDC prior to commencement of the development.' Being mindful that these payments are seen by officers as 'tilting the balance' to allow the permission for 125 houses – three times those planned for under the emerging plan and in addition to 35 affordable houses being built not in the emerging plan, can we please have a clear definition of the words 'prior to commencement of the development'. Is it when permission is received for outline; reserved matters approval; the day before work is started on the site OR some other explanation? How long will it take for the Parish Council to obtain the money from MDDC? The projects are in the planning stage now so money in two or more years time will not be of great help and costs will have risen.

Is it appropriate that since the original planning committee findings on 5 September the applicant has approached Willand Primary School and DCC Education to send correspondence to the committee? Is it also appropriate for the applicant to ask for the wording of the entrance application to be amended at this critical stage of the decision making process? In relation to the school is it of concern to find that these monies are needed to cover failings of DCC Education for a number of years to

properly fund facilities at the school to cater for the increase in numbers? The Parish strongly support the school to have the extra facilities but it must be questioned if this is the appropriate way for it to be done when the extra housing proposed outside of the plan will put an unproportionate strain on other services and facilities within the village? Should not the cumulative impact on all services and facilities be considered equally?

Mr Marrow referring to Item 10 and 11 (Meadow Park/Lane, Willand) on the agenda stated: The report officers have set out information and argument under the headings of Financial and Legal Implications and Risk Assessment. In recent local appeals there has been no appointment of planning consultants or legal representation so why should this be different? Why is not the risk of a judicial review raised if committee should approve the application which is so clearly in conflict with current and emerging policies? Have they not again, as with the earlier 'Esso Garage' application, put the Council at risk of an appeal for non-determination – a point raised by the applicant although not pursued at this time?

Mr Dyer referring to Item 1 on the Plans List (Crediton Garden Centre) asked please can the planning officer inform us why garden centres are not considered as retail operations under Mid Devon planning policies? It is clear we hope to everyone what is proposed is a major retail shopping destination so surely it should be treated as retail? If it was treated as retail it would clearly be refused on the grounds of disproportionate scale and being in open countryside.

Mrs Tucker referring again to Item 1 on the Plans List asked - please can the planning officer advise why planning permission on part of the land has been refused 6 times before (plus twice on appeal) due to being in open countryside? Why is this now not a material consideration?

Secondly, the planning officer's report stated that the 2003 permission is sufficient to develop the site further. However this new proposal has 13 times more buildings than in the 2003 application. Why is it now deemed acceptable for such a large shop to be developed in open countryside? Thirdly, the 2003 permission restricted any A1 general retail use on the site due to it being in the open countryside. Why now is the applicant permitted to sell A1 general goods in 85% of the store?

Mr Wood again referring to Item. 1 on the Plans List asked please can the planning officer comment on why the application is not being refused on the basis of inappropriate scale, whether it is classified as retail or not? Total buildings in the application are nearly 3 times larger than the existing structures. These additions are therefore massively disproportionate, well over and above the size of the original, and the application accordingly should be refused.

Mr Bond again referring to Item 1 on the Plans List asked can the planning officer please comment on why the impact on Crediton town centre has been vastly underestimated? In reality, the impact on the Crediton town shops due to this development would be massive and devastating. The pet shop, angling shop, my shop, the butchers, card shops, and the flower shop in the town centre would be hugely affected. Many shops could close. Why are you not concerned about the vitality of the town centre which would be destroyed. The 500m2 restriction in the officer's report will not be enough to protect the town shops. Homeleigh could sell whatever they want in the remaining 85% of the store. We believe that the application

should be refused and if this is not possible then much stronger restrictions need to be put in place.

Ms Holloway asked would the planning officer please comment on why the impact of the massive cafe on the local economy has been hugely underestimated? The size of the cafe is enormous, this size could seat up to 500 people at a time. A cafe of this size is bound to have a major negative impact on all the cafes and pubs in Crediton town centre and the surrounding areas and will lead to up to 50 job losses from catering alone, based on our survey of local businesses.

Ms Hutchings asked can the planning officer please comment on why the proposed new entrance has not been judged as a major safety concern? It is on a 60 mph A road with a blind brow and only 5 seconds to stop before the new entrance. It takes cars at least 6 seconds to stop at 60mph.

Highways response was that an independent safety inspector has deemed this access safe. However, with large lorries turning right into the path of the oncoming 60 mph traffic, common sense would tell us that this is an accident waiting to happen?

Mr Schofield asked can the planning officer comment on why the applicant is relying on a previous small planning permission to now justify such a massive expansion? The 2003 permission was not lawfully commenced in time, except for some work at the entrance and erecting polytunnels. The small proposed shop and small tea room were never built, so the permissions for shops and cafe effectively lapsed. The 2003 application was supported at the time as a small scale rural regeneration. However, the now proposed cafe is 14 times larger than the never built 2003 cafe, and the shop is 13 times larger the never built 2003 shop. Surely this should be recognised as not simply an expansion of an existing operation, but a massive redevelopment and it should be refused.

Mr Tucker on behalf of Mr Peacock asked can the planning officer please answer why a 10 year retail impact assessment was not carried out as it should have been by law. This appears to have been avoided on a technicality. The sales area is claimed to be only increasing in size by a tiny 315m<sup>2</sup> which anyone on the site visit would see is ludicrous. The whole of the site is claimed as having been designated for retail sales in the 2003 planning permission. However over half of the site on the 2003 plan was actually designated and fenced off for growing or keeping stock only and was never used for retail sales.

Now the increase in covered retail space is enormous - this store would be 1½ times bigger than Tesco, and 5 times bigger than the new very large Mole Avon store in Crediton. Surely a full 10 year retail impact assessment should really have been carried out? As this was not done due to a technicality a false conclusion was reached that there would only be 1% effect on town centre turnover. We believe this is a gross under estimate and that in reality it would be 20%. Therefore the application should be refused to protect the town centre.

Mr Tucker asked can the planning officer please comment on why the sequential test in the application did not assess that the land adjoining Tesco, which has much better road links and is still under developed, was not considered as an alternative and better option for such a large scale garden centre. We believe that this should have been done as part of the process.

Ms Green asked can the planning officer please comment on how the conclusion could be reached that there will be an imperceptible impact on existing highway users? Such a massive centre will be a 25 fold increase in traffic based on its turnover forecasts. Parking spaces grow from 20 to 241. There will be similar major traffic congestion already seen at large regional garden centres such as Whitehall near Bath and Otter Nurseries. it is clear that the conclusion from Highways is fundamentally flawed. How will this massive increase in congestion, especially at peak times at Christmas and in Spring be dealt with.

Could the planning officer please answer why a full landscape assessment was not carried out? The landscape assessment was very superficial, resulting in a false conclusion that there would be little landscape impact. In reality the scale of the buildings are just so huge, 3 times more than currently.

Such a massive development would clearly have a big impact on landscape, even if the building would be set down by levelling the site. These large buildings would still be very prominent and visible from a long distance away. Accordingly the application should be refused.

Mr Counter asked can the planning officer please comment on how the increase in air pollution caused by a massive increase in HGV vehicles, coaches and cars going through Crediton town centre, in what has been an air quality control zone, will be mitigated in future? Could the planning officer please answer why a full public consultation was not carried out? Residents were not aware of a public meeting, as it was only announced on the applicant's facebook page at 2 hours notice. Many residents have mentioned this in their objection letters. Surely the correct procedure for public consultation has not been followed, and the application is invalid?

The Chairman indicated that the questions would be considered during the debate on the applications.

**61 DECLARATION OF INTERESTS UNDER THE CODE OF CONDUCT (00-25-08)**

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

**62 MINUTES OF THE PREVIOUS MEETING (00-25-25)**

The minutes of the special meeting held on 19 September 2018 were approved as a correct record and signed by the Chairman.

**63 CHAIRMAN'S ANNOUNCEMENTS (00-26-21)**

The Chairman introduced and welcomed Gregg Venn and Alex Marsh, the new Conservation Officers to the meeting.

**64 DEFERRALS FROM THE PLANS LIST (00-27-12)**

There were no deferrals from the Plans List.

**65 THE PLANS LIST (00-27-00)**

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

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

(a) Applications dealt with without debate.

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

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

(i) No 4 on the Plans List (**18/01205/FULL – Erection of a livestock building, Middle Weeke Farm, Morchard Bishop**) be approved subject to conditions as recommended by the Head of Planning, Economy and Regeneration.

(Proposed by the Chairman)

(b) No 1 on the Plans List (**17/02061/MFUL – Remodelling and modernisation of existing garden centre following demolition of existing structures, to include erection of retail areas, café and warehouse, formation of new vehicular access, provision of parking areas and landscaping – Crediton Garden Centre, Barnstaple Cross, Crediton**).

The Area Team Leader outlined the contents of the report identifying by way of presentation the location of the site and an aerial photograph which outlined the existing footprint at the present time. He explained that conditions 13, 14 and 15 outlined in the report would maintain control of the floor use specified for retail activity and would stop the restaurant acting independently from the Garden Centre which was of concern to many of the objectors to the application. He provided a footprint of the site as proposed which highlighted the different areas contained within the application, part of the scope of the site would contain some of the highway improvements and a plan identifying the main access point and landscaping proposals. Existing and proposed photo montages were outlined as was a site plan setting out the parking area for the staff, the new building, new access and a new car park along with the proposed landscaping and footway connection. The block plan highlighted the solar panels on the roof, and the area to be demolished. Members viewed plans for the ground floor, the proposed elevations, the site sections and the highway proposals which included the scope of the alterations and the inclusion of an additional feeder lane to the site, the location of the bus stop and photographs from various aspects of the site.

The officer answered questions posed in public question time:

- Why the garden centre was not treated as a retail development; the description was not proposed as retail and conditions would prevent retail development and that this would be enforceable.
- Why were officers recommending approval for the planning application which was 13 times the size of the existing buildings on site; the plans show that the development was larger but not significantly so. The Local Planning Authority would have had a retail impact assessment but the conditions limited the amount of areas to be used for retail.
- With regard to the scale and massing of the proposal, the plans available identified the area to be developed.

- Concerns with regard to 85% of the floor space could be used for A1 retail; Condition 15 limited the area for retail to 500 sq. metres
- The impact of the proposal on the local economy and that 45 jobs would be lost; the application constrained the café and floorspace for retail and the application had suggested that the garden centre would be a visitor destination that would attract people to visit the garden centre and the town of Crediton.
- With regard to the highway issues, Mr Sorenson would address those however the highway improvements had been highlighted within the officers presentation.
- The proposal was extensively more than allowed in 2003 and should be refused; the height, scale and massing of the proposal could be a reason for refusal.
- Why had the 10 year retail assessment not be carried out, as the application was not a proposal for retail development and conditions would limit the retail ability, this was not required.
- A sequential test not being carried out; as above
- Why not use other land, the applicant did not own the other land.
- Issues with regard to congestion and impact on the highway; a highway improvement scheme had been submitted and the scope of those improvements had been explained,
- Why a full public consultation had not taken place, the objector had referred to the pre-application consultations that did take place. The Local Planning Authority had consulted as part of the planning application process.

Mr Sorenson (Devon County Council Highway Authority Representative) then addressed the meeting stating that the safety audit had been happy with the visibility splays, there would be additional road markings, the footpath would improve the visibility from Barnstaple Cross to Crediton and an offsite footway and crossing place would be in place. The uplift in traffic proposed by the application would generate the provision of a right turn lane which would deal with the additional traffic and this was thought to be adequate for the size of the development.

The meeting then considered Members questions with regard to:

- The speed of traffic using the A377
- Whether plants would be grown on site
- Whether the proposal was 100% retail, particularly as none of the plants would be grown on site.
- The opening hours of the proposed garden centre
- The traffic speed limitations around Bernaville Garden Centre
- Whether the development was environmentally sound with regard to the amount of glass and lighting proposed.

Consideration was given to:

- The views of the objector who highlighted the scale and massing of the proposal, the vast retail store in the countryside, the impact of the proposal on local businesses and the loss of jobs in the area.
- The views of the agent with regard to the consultation that had taken place, the highway improvements proposed, the proposal would be built on a

brownfield site, the design of the proposed garden centre and the fact that it was lower than the existing building

- The views of the Ward Members with regard to the bold and interesting proposal, the support of the local Parish Council and the Town Council, the facility would bring visitors to the area. The Homeleigh Centre in Launceston had revitalised the town, there would be little impact on the businesses in the town and the proposed highway improvements.

Discussion then took place regarding:

- Whether the proposal was an intrusion into the countryside
- The impact of the proposal on the highway network
- Whether garden centres should just sell plants
- Concerns regarding the amount of retail area proposed and whether a business case had been completed
- Whether the proposed conditions 13, 14 and 15 would give the control required

It was therefore:

**RESOLVED** that Members were minded to refuse the application and therefore wished to defer the application for consideration of an implications report to consider the following issues:

- Whether the application proposal would result in harm to the vitality and viability of the Crediton Town Centre and surrounding villages which would be contrary to policy DM17 and DM19.
- Whether given the size, scale and massing of the proposed buildings and the scope of hardscape introduced to accommodate the car parking requirements the application scheme would be detrimental to the visual amenities and overall character of this site in the open countryside which would be contrary to DM2, DM19 and DM20.

In addition concern was expressed about the level of lighting that would be required and how this would affect the overall character of the site especially given it is in open countryside.

- Whether given the amount of car parking proposed and the increase in number of vehicular trips on the highway network travelling to and from the application site as it proposed to be remodelled, the application scheme is considered to be an unsustainable form of development which would be contrary to DM2, DM6, DM19 and DM20.

In addition the overall sustainability credentials were challenged.

(Proposed by Cllr F W Letch and seconded by Cllr B A Moore)

Notes:

- i) Cllrs: Mrs F J Colthorpe, Mrs G Doe, R B Evans, P J Heal, D J Knowles, F W Letch, B A Moore, R F Radford, J D Squires and R L Stanley 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;

- ii) Cllrs P J Heal, D J Knowles and D R Coren made additional declarations in accordance with the Protocol of Good Practice for Councillors dealing in Planning Matters as they had had face to face contact with objectors and/or the applicants;
- iii) Cllr F W Letch declared a personal interest as he knew some of the objectors;
- iv) Cllr Mrs G Doe declared a personal interest as she had spoken to the objectors, one of which was a close friend;
- v) Cllr J D Squire declared a personal interest as some of the objectors were known to him;
- vi) Mr Tucker spoken in objection to the application;
- vii) Mr Kemp (Agent) spoke;
- viii) Cllr s D R Coren and P J Heal spoke as Ward Members;
- ix) A proposal to support the application was not supported;
- x) The following late information was reported: On page 31 proposed change condition 3 as follows;

3. All the existing trees and boundary treatments which are proposed to be retained and all new planting, seeding, turfing and/or earth re-profiling as set out on the soft landscape plan as shown on drawing 211 hereby approved shall be carried out within 9 months of the substantial completion of the development, and any trees or plants which, within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species. Once provided, the landscaping scheme shall be so retained.

- (c) No 2 on the Plans *List (18/00657/FULL – Retention of change of use of an existing agricultural building to office with parking – Bradford Farm, Uplowman)*.

The Principal Planning Officer outlined the contents of the report, highlighting the information within the update sheet which outlined the nature of the business to be undertaken in the offices, the response of the objector's agent, the amendment to Condition 6 with regard to the boundary fence treatment and the proposed additional condition with regard to the surface of the car parking area.

He provided the following answer to the question posed in public question time: with regard to the timing for the creation of a foul drainage system, if Members felt it necessary the condition could be amended to state prior to occupation of the accommodation, with regard to the enforcement of conditions, the officer felt that the

conditions could be enforced and if a breach of planning control was reported then this would be attended to within 24 hours.

He then provided a presentation which outlined the site location plan, the block plan which considered the parking area and proposed landscaping and the amended/additional conditions as explained in the update sheet. Plans for the office space for up to 15 people, the first floor areas, section plans, proposed elevations and photographs from various aspects of the site

Consideration was given to:

- The views of the objector with regard to the current enforcement issues being dealt with, the business was proposed outside the settlement limit, there were other available sites for office space, the visual impact of proposal including the car parking area on his property
- The views of the agent with regard to the creation of useful office space, this was an internet based business which would not handle any stock, it was hoped that the business would grow but staff would be limited to a maximum of 15, he understood the issues with regard to the surface of the car park and was happy with the compromise suggested by officers. The application was a conversion of existing buildings, the current scheme was supported by the Highway Authority and complied with the Core Strategy and the NPPF.
- The views of the Ward Members with regard to the inadequate standard of the work that had taken place, there was adequate parking within the courtyard which would have less impact on the neighbouring property, the resurfacing condition was welcome, however there were still issues with the visibility splay. Whether the office space could be tied to the dwelling and whether the car park would be light and if so the impact of this on the neighbouring property. The ongoing enforcement issues on the site, whether there was a need for office accommodation in the rural area, the general impact of the proposal on the neighbouring property.
- Whether the courtyard could be used for staff car parking
- Policies DM11 and DM20
- The sustainability of the site
- The need to talk to the applicant before suggested changes were made to the application
- Whether the setting was inappropriate

**RESOLVED** that Members were minded to refuse the application and therefore wished to defer the application for consideration of an implications report to consider the following issues:

- Whether the proposal had an unacceptable impact on the neighbouring property (especially the car parking area) and therefore did not comply with policies DM11 and DM20
- The intensification of the use of the premises
- Whether this was an inappropriate location for the proposal
- Was there more appropriate facilities nearby
- The impact of the development on the amenity of the neighbouring property especially with regard to lighting issues

(Proposed by Cllr R L Stanley and seconded by Cllr R F Radford)

Notes:

- i) Cllr D J Knowles declared a personal interest as the objector and his family were known to him;
- ii) Cllr R F Radford declared a personal interest as the objector was known to him;
- iii) Mr Blakemore spoke in objection to the application;
- iv) Mr Burton (Agent) spoke;
- v) Cllrs D J Knowles and C R Slade spoke as Ward Member;
- vi) The Chairman read a statement from Cllr N V Davey (Ward Member)
- vii) The following late information was reported:

One email received from the applicant's agent providing further information in terms of the nature of the business use for the office space which is summarised as follows:

- The nature of business to be undertaken in these offices will be desk work based i.e. administration and consultancy via the internet
- This is the nature of the applicants businesses
- This falls within the B1 use classification that is included within the proposed condition 3 for the application.
- In respect to no formal justification of the office accommodation within this location other than within Tiverton, Members are referred to the Officer Report where it states:

"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 they feel that the businesses location is not unjustified and complies with Policy DM20.

In response to this additional information one email has been received from the Planning Consultant (XL Planning Ltd) acting on behalf of the objector with the comments summarised as follows:

- The policy justification provided of the location is minimal at best
- In terms of the criteria for Local Plan Policy DM20, Tiverton Town centre is less than 2 miles from the application site and Tivertons

settlement limit is now only less than one mile away which is considered to be within the immediate area

- It can be demonstrated that there are sufficient employment locations within Tiverton which would suit this new enterprise, including Lower Moor Way (two offices available), Howden industrial estate, and the Town centre itself.
- Notwithstanding the availability of existing premises in nearest settlement, the location is considered inappropriate for this size and type of development.
- The rural setting of this beautiful set of historic barns has been significantly eroded by the works that have taken place, including the unauthorised works which still have not been regularised by way of any planning application to date.
- Development which harms the visual environment or has an adverse impact on the character is contrary to policy.
- It is contended that the development proposed will clearly impact upon the barns themselves and their associated heritage values, both physically and visually and the changes to the setting and the erosion of integrity of the buildings is unacceptable.
- The further domestication of the barns will erode their integrity and authenticity and will be irreversible.
- The proposal to convert these buildings to offices is not considered to be in line with Local Plan Policy DM20.

3<sup>rd</sup> October 2018

Amendment to condition 6:

Notwithstanding the details as submitted and within one month of the date of this planning permission, revised details for a boundary treatment to include a fence in addition to the beech hedgerow as indicated on drawing number 18-2263-002B shall be submitted to and approved in writing by the Local Planning Authority. The details will include a plan indicating the height, positions, design, materials and type of boundary treatment to be erected on the site and a timescale for its implementation. The hedgerow approved shall be implemented within the first planning 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.

Reason:

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).

Additional condition:

Notwithstanding the details as submitted, the surface of the car parking area and access to serve the office accommodation shall be finished in a bound material such as tarmac or concrete with final details to be submitted to and approved in writing by

the Local Planning Authority and implemented prior to first occupation of the office accommodation hereby approved.

Reason:

To safeguard the amenity of nearby residential properties in accordance with policy DM2 of the Local Plan Part 3: (Development Management Policies).

(d) No 3 on the Plans *List (18/00662/MFUL – Erection of an industrial building (B1/B2/B8 use) an provision of additional parking – Hartnoll Business Centre, Hartnoll Farm, Tiverton).*

The Area Team Leader outlined the contents of the report by way of presentation highlighting the site location plan and the established bund, the scope of the car parking area and the proposal for the additional 59 spaces, the access from the main road through the site and the vehicle loop proposed, the proposed site plan, ground floor plan, proposed elevations and the existing and proposed landscaping plans along with photographs from various aspects of the site. He informed the meeting of the negotiations that had taken place between the applicant and the case officer.

Consideration was given to the history of the site and the location of the bund which had formed part of previous applications; the now established landscaping on the site, the decrease in parking spaces from the original proposal and the impact of the proposal on the village of Halberton with regard to an increase in traffic.

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

(Proposed by the Chairman)

Notes:

- i) Cllrs D J Knowles and R F Radford declared personal interests as the applicant was known to them;
- ii) Cllr R F Radford spoke as Ward Member.

(e) No 5 on the Plans *List (18/00745/FULL – Erection of a dwelling following demolition of existing shed – land and buildings at NGR 295495 115092 (Adjacent to Lurley Cottage) Lurley).*

At Planning Committee on the 5<sup>th</sup> September 2018 it was resolved that Members were minded to approve the application and therefore wished that the application be deferred to allow for the wildlife report to be produced and for a wider report to be submitted containing possible conditions, the consideration of replacement parking and a contribution towards the provision or improvement of public open space in the locality.

The Principal Planning Officer outlined the contents of the report which included conditions if Members were minded to approve the application. He informed the meeting s that the applicant had paid the financial contribution towards the provision of public open space and that the habitats survey had been received which had

found no indication of any protected species on the site. He presented plans identifying the location of the site, floor and roof plans and photographs from various aspects of the site.

Consideration was given to whether the proposal would improve the visual amenity of the site.

**RESOLVED** that planning permission be granted for the following reason: the Local Planning Authority recognise that the application site is the open countryside and is not an allocated site for new residential development and therefore there is no specific development plan policy support for the application scheme which is for the creation of a new dwelling on this site. However taking into account the provisions of paragraph 11 of the National Planning Policy Framework, the benefits of provision of a single dwelling that respects the existing development pattern of Lurley and has no unacceptable impact on highway safety or the amenity of neighbouring residents with improvements to the visual amenities of the site and area in general through the removal of the existing shed, are considered to outweigh the harm caused by new residential development in a countryside location that is considered to be unsustainable in planning policy terms.

Subject to conditions as recommended by the Head of Planning, Economy and Regeneration with the removal of Condition 7 and an additional condition which stated that “The development shall be completed in accordance with the biodiversity mitigation set out with the ecological assessment completed by encompass ecology ltd and received 24<sup>th</sup> September 2018”.

Reason for condition:

In the interests of preserving biodiversity in accordance with policy DM2 Local Plan Part 3 (Development Management Policies) and in accordance with the Wildlife and Countryside Act (1981) (as amended); the Countryside and Rights of Way Act, 2000; the Natural Environment and Rural Communities Act (NERC, 2006); and by the Conservation of Habitats and Species Regulations (2017).

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

Notes:

- i) Cllrs: Mrs F J Colthorpe, Mrs G Doe, R B Evans, P J Heal, D J Knowles, F W Letch, B A Moore, R F Radford, J D Squires and R L Stanley 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;
- ii) Cllr R J Dolley spoke as Ward Member;
- iii) The following late information was provided:
  - A habitats survey has been received. The habitats survey concludes that there is no evidence of bats using the buildings on site. There are two bird boxes on the southern elevation of the building, one of which seemed to have been in use during the 2018 season. Overall, the results of the survey found no indications of any protected species presence on site, apart from the previous of one of the bird boxes. There are no

ecological constraints to consider within the current application or the construction process. The report suggests the provision of new bird box provision on site, within the garden area as a biodiversity benefit.

Proposed additional condition:

The development shall be completed in accordance with the biodiversity mitigation set out with the ecological assessment completed by encompass ecology ltd and received 24<sup>th</sup> September 2018.

Reason:

In the interests of preserving biodiversity in accordance with policy DM2 Local Plan Part 3 (Development Management Policies) and in accordance with the Wildlife and Countryside Act (1981) (as amended); the Countryside and Rights of Way Act, 2000; the Natural Environment and Rural Communities Act (NERC, 2006); and by the Conservation of Habitats and Species Regulations (2017).

- A financial contribution of £1442 toward the offsite provision of public open space and play areas has been received in accordance with policy AL/IN/3 Allocations and Infrastructure Development Plan Document and the Supplemental Planning Document 'Funding public open spaces and play areas through development'.
- A plan has been submitted indicating the provision of two parking spaces for the proposed dwelling (which are adjacent to the dwelling). A scaled plan indicating the provision of two parking spaces for use by the occupants of the existing dwelling is still required.

3<sup>rd</sup> October 2018

Additional information and plans have been received that demonstrate that the occupiers of the existing property 2 Higher Lurley Cottages are able to park vehicles on the adopted highway to the west of 1 Higher Lurley Cottages. The area of adopted highway to the west of 1 Higher Lurley Cottages does not have any restrictions upon it, although any user of the area must not cause obstruction to the highway. This is understood to be the location which cars associated with 2 Higher Lurley Cottage use to park and will be able to park after construction of the proposed dwelling.

Proposed condition no.7 would therefore no longer be required as a plan demonstrating the provision of parking for 2 Higher Lurley Cottages is not needed.

## 66 MAJOR APPLICATIONS WITH NO DECISION (3-35-55)

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

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

## 67 **APPEAL DECISIONS (3-37-31)**

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

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

## 68 **APPLICATION 18/00175/MOUT - OUTLINE FOR THE ERECTION OF UP TO 125 DWELLINGS WITH PUBLIC OPEN SPACE AND ASSOCIATED INFRASTRUCTURE - LAND AT NGR 303288 110467, ADJ MEADOW PARK, WILLAND (3-39-00)**

The Committee had before it an \* implications report of the Head of Planning, Economy and Regeneration regarding the above application; Members at the meeting on 5 September 2018, were minded to refuse planning permission, but a final decision was deferred pending consideration of an implications report.

The Area Team Leader outlined the contents of the report highlighting the proposed reasons for refusal identified at the previous meeting. The meeting viewed a presentation which highlighted the proposed site for 125 dwellings outside the settlement limit of Willand, an aerial view which identified the affordable housing being built on Silver Street and the site by the Esso garage which had recently been to appeal. She presented an indicative concept plan for the proposal of 125 dwellings and showed photographs from various aspects of the site.

In respect of the questions posed in public question time, she provided the following responses:

Cllr Warren asked:

- 1) Whether para 2.2 was really addressing all the issues. He advised that size and scale of the proposal and the impact on the character of the village should include consideration of the cumulative impact on facilities and infrastructure. He was concerned that officers were attempting to 'water down' the reasons given by members to make it less likely to defend an appeal and wondered whether one reason for refusal was robust enough.  
Officers would comment that: we are here to provide professional advice to members for them to consider in the decision making process. It would be remiss of officers if we didn't give professional advice on the likely success or otherwise at appeal nor remind members of the need to ensure that reasons for refusal are well-reasoned and robust to prevent cost being awarded at appeal. The cumulative impact on services and facilities are not dismissed but considered later in the report. Members have the ability to add further reasons for refusal if necessary but these should focus on the main issues rather than be a raft of reasons which would not stand up at appeal. More reasons for refusal does not make a scheme more likely to be dismissed at appeal but it can lead to an increased likelihood of costs being awarded against the council for unreasonable behaviour.
- 2) Why officers are not using policies COR17 and 18 as reasons for refusal.  
Officers would comment that: Page 93 of the report (starting with the third para up from the bottom) sets this out clearly and states that the proposal for the 259 dwellings WAS in conflict with COR17 and COR18 but in the para

immediately below, it also states that as these are policies which were contributing to the lack of a 5 year housing land supply, the Inspector afforded them LIMITED weight. In the appeal for the 30 dwellings on the garage site, the Inspector refers to the conflict with policies COR17 and COR18 but in applying the tilted balance, he states that he will treat the most important policies accordingly and refers to them being out of date in the light of the councils housing supply. Therefore officers do not consider that sufficient weight can be attached to policies COR17 and 18 and would advise members against referring to these in any reason for refusal.

- 3) Why officers left out reference to the proposal being contrary to policy COR12. Officers would comment that: COR12 is a policy relating to the distribution of housing and given that the authority cannot demonstrate a 5 yHLS, it must carry limited weight. However, it does set out the Councils strategy for promoting the vitality of the main urban areas and therefore accords generally with the NPPF which seeks to promote sustainable development. Therefore if members feel that COR12 should be included in the reason for refusal set out at para 3.0 of the report, then officers consider they may do so without prejudicing the authorities case at appeal

Cllr Grantham asked:

- 1) For a clear definition of 'prior to commencement' as there are projects in the planning stage now so money in 2 or 3 years time may not be of help. Officers would comment that: 'prior to commencement' can mean anytime until the moment the first trench is dug in the ground. Bearing in mind that this is an outline application, which if approved would still need to be subject to a reserved matters application which needs to be submitted within 3 years of the outline permission and then developers have 2 years to commence work after the RM has been granted, it may be some years before the developer is required to pay the s106 contributions. However, members must be mindful of the fact that s106 obligations are there to mitigate the impacts of a development and therefore it is not in fact until residents start to occupy the dwellings that the impact of the development on services and facilities will be felt, and mitigation required. The applicants have however agreed to some wording in the s106 that if the WHCC project does not go ahead, the contribution can be used for an alternative community project.
- 2) If it's appropriate for the applicant to approach DCC and the school and ask them to send correspondence to the committee. Officers would advise that there is nothing which prevents them from doing so and the correspondence received has been posted on the public access system
- 3) If it's appropriate for the developer to ask for the description of the access proposal to be changed at this stage Officers would advise that: this was to ensure that the development proposal was clear and unambiguous, having listened to the concerns that committee expressed at the meeting on 5<sup>th</sup> Sept. The description has been amended and the ward members and parish council were advised of the change
- 4) If its right that the monies for the school come from this development due to failings of DCC over a number of years Officers would advise that: DCC were clear to advise that they can only seek contributions from developers where the development would lead to a school being oversubscribed. They have advised that this is not the case with Willand

Primary School. The s106 obligation to fund the project for a new school studio arose from discussions with the ward members and parish council where it was felt this was a priority for the village. It will be for members to decide today whether the development with those s106 obligations is acceptable

Mr Marrow asked:

- 1) In recent appeals there has been no appointment of planning consultants and why should this case be any different  
Officers would advise that: a decision on whether it is necessary to appoint consultants is taken on a case by case basis. The application for 259 dwellings was the result of a delegated refusal so officers and the highway authority defended the appeal. The appeal for the 30 dwellings at the garage site was a written reps appeal where the appointed members contributed towards the written statement with officer assistance. Whether consultants are appointed to assist with an appeal would depend on issues such as the appeal method ( public inquiry, hearing or written reps) and the technical nature or otherwise of the reasons for refusal. It is therefore correct that members are made aware of the financial and legal implications of the decision they take
- 2) Why is the risk of judicial review not raised  
Officers would advise that: any decision the council make may be subject to judicial review and therefore it is not necessary to make specific reference that that in the written reports
- 3) Have officers put the council at risk of a non-determination appeal  
Officers would advise that: any application is at risk of non-determination appeal where it remains undetermined at the statutory date but where negotiations are ongoing, extensions of time can be agreed. The applicant has not indicated that they would wish to pursue this at this time wishing instead for members to have the ability to consider the implications report in full at committee today.

Consideration was given to:

- How much weight could be given to the emerging Local Plan
- The details of the S106 agreement
- The implications of the applicant appealing any decision of refusal

It was therefore

**RESOLVED** that planning permission be refused on the following grounds

The development is for the erection of 125 dwellings outside the settlement limit boundaries of Willand and represents a large-scale residential proposal on a site for which there is no development of this scale planned for within either adopted or emerging policy. The Local Planning Authority consider that the proposed unplanned development would be out of scale with the size of and facilities available in the settlement of Willand to the detriment of its long-term sustainability and social cohesion of the local community. When tested against Paragraph 11 of the National Planning Policy Framework the Local Planning Authority consider that the adverse impacts of the proposed development would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework as a whole as well as being contrary to Policy COR1, COR9 and COR 12 of the Mid Devon Core

Strategy (Local Plan Part 1) and Policy DM1 of the Mid Devon Local Plan Part 3 (Development Management Policies).

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

Notes:

- i) Cllrs: Mrs F J Colthorpe, Mrs G Doe, R B Evans, P J Heal, D J Knowles, F W Letch, B A Moore, R F Radford, J D Squires and R L Stanley 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;
- ii) Cllrs Mrs J Doe and R B Evans made further declaration in accordance with the Protocol of Good Practice for Councillors dealing in Planning Matters as they had had contact with the applicants and objectors as Ward Members;
- iii) Cllrs Mrs G Doe, R F Radford and R L Stanley to be available should the applicant appeal the decision.
- iv) The following late information was reported:

25.09.2018

Members are advised that a further letter has been received since the publication of the original agenda report from the Head teacher at Willand School as follows:

'Further to the planning application 18/00175/MOUT, I am writing to confirm the position of Willand School with regard to the proposed financial contribution from this development towards the provision of additional space at the school.

Willand School has a net capacity of 420 places but there are accommodation deficiencies in some areas, notably with the lack of studio space. The additional studio proposal will support the delivery of the wider curriculum and limit problems of disturbance to neighbouring rooms in the current school. Although primarily to be used for curriculum music teaching to class-size groups, other design features will ensure its versatility for a variety of additional activities, including overspill dining space for the hall, a dance/drama space and small group interventions to support children who need targeted teaching.

The proposed studio project secured planning permission in April 2017 and we are ready to go out to tender when funding permits. However there are no funding sources identified for delivery of this project at this time'

2/10/2018

EMAIL FROM AGENT AS FOLLOWS:

Thank you for your email yesterday in respect of the speaking arrangements for the Planning Committee tomorrow; we note that we will still not be able to speak in respect of the main (Outline) application, but it would be possible to speak to the Access (Full) application (which would be considered second out of these two items). I suspect that we will leave this as things will be covered in your

report (including update report) and presentation, but could we maybe reserve the ability to say anything and we will confirm to the committee clerk at the meeting tomorrow?

Also whilst writing and having again reviewed the 'Implications Report' (for the Outline application), it is noted that the trigger points for S106 Obligations, which we had suggested in advance of the last meeting, are now included in the Heads of Terms that are at the front of the report. As we specifically noted when submitting our suggestions in advance of the last meeting (my email of 28<sup>th</sup> August 2018, attached for ease), these were a starting point for discussion/agreement with the LPA. Although it seems that Officers are content with these suggestions, there has not been any specific discussion or refinement of these triggers with us to date. Furthermore, it was apparent from the last meeting that the Parish Council and Local Members had not been able to consider these in advance of the committee meeting, and it is a high priority to them that the appropriate early triggers are agreed. As such, I would just like to confirm that the applicant would be open to discuss and vary these specific details should any alternative arrangement/priority for the triggers be considered necessary/desirable.

iv) \*Report previously circulated, copy attached to minutes.

69 **APPLICATION 18/00177/FULL - CREATION OF NEW ACCESS FOR RESIDENTIAL DEVELOPMENT - LAND AT NGR 303174 110748, MEADOW LANE, WILLAND (4-07-59)**

The Committee had before it a \* report of the Head of Planning, Economy and Regeneration regarding the above application; at the Planning Committee meeting on 5<sup>th</sup> September, Members advised that they were minded to refuse the associated application 18/00175/MOUT and invited a further report to set out the implications of the determining this application for the access in light of a possible refusal on the application for 125 dwellings.

The Area Team Leader outlined the contents of the report stating that since the previous meeting the description of the application had been amended by the applicant and was now just the "Creation of new access for residential development". She provided plans which identified the location of the new access.

Consideration was given to: the views of the Parish Council with regard to the access identified in the emerging Local Plan for access for 42 dwellings.

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

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

Notes:

i) Cllrs: Mrs F J Colthorpe, Mrs G Doe, R B Evans, P J Heal, D J Knowles, F W Letch, B A Moore, R F Radford, J D Squires and R L Stanley 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;

- ii) Cllrs Mrs J Doe and R B Evans made further declaration in accordance with the Protocol of Good Practice for Councillors dealing in Planning Matters as they had had contact with the applicants and objectors as Ward Members;
- iii) The following late information was reported: Members are advised that the applicants have formally requested that the description of their application is amended to 'Creation of new access for residential development'. Members are advised that this has been done in the interests of making the application proposals clearer. It does not materially affect the development proposals as the plans/drawings/specification remain unchanged. This in no way prevents members from issuing a refusal, if having read the implications reports and considered everything raised at committee, they feel it is appropriate to do so.
- iv) \*Report previously circulated, copy attached to minutes.

(The meeting ended at 6.40 pm)

**CHAIRMAN**

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## PLANNING COMMITTEE AGENDA - 31st October 2018

### Applications of a non-delegated nature

<u>Item No.</u>	<u>Description</u>
01.	18/01393/HOUSE - Erection of shed at 1 Locks Cottage, Whitnage, Tiverton. <b>RECOMMENDATION</b> Grant permission subject to conditions.
02.	18/01243/LBC - Listed Building Consent for replacement windows at Middle Weeke Farm, Morchard Bishop, Crediton. <b>RECOMMENDATION</b> Refuse Listed Building Consent.
03.	18/01381/LBC - Listed Building Consent for the uPVC window in attic dormer, uPVC fascia and erection of lean-to at 45 St Peter Street, Tiverton, Devon. <b>RECOMMENDATION</b> Refuse Listed Building Consent.
04.	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 at Yellow Hammer Brewing Limited, Hanlons Brewery, Hill Farm. <b>RECOMMENDATION</b> Grant permission subject to conditions.

Application No. 18/01393/HOUSE

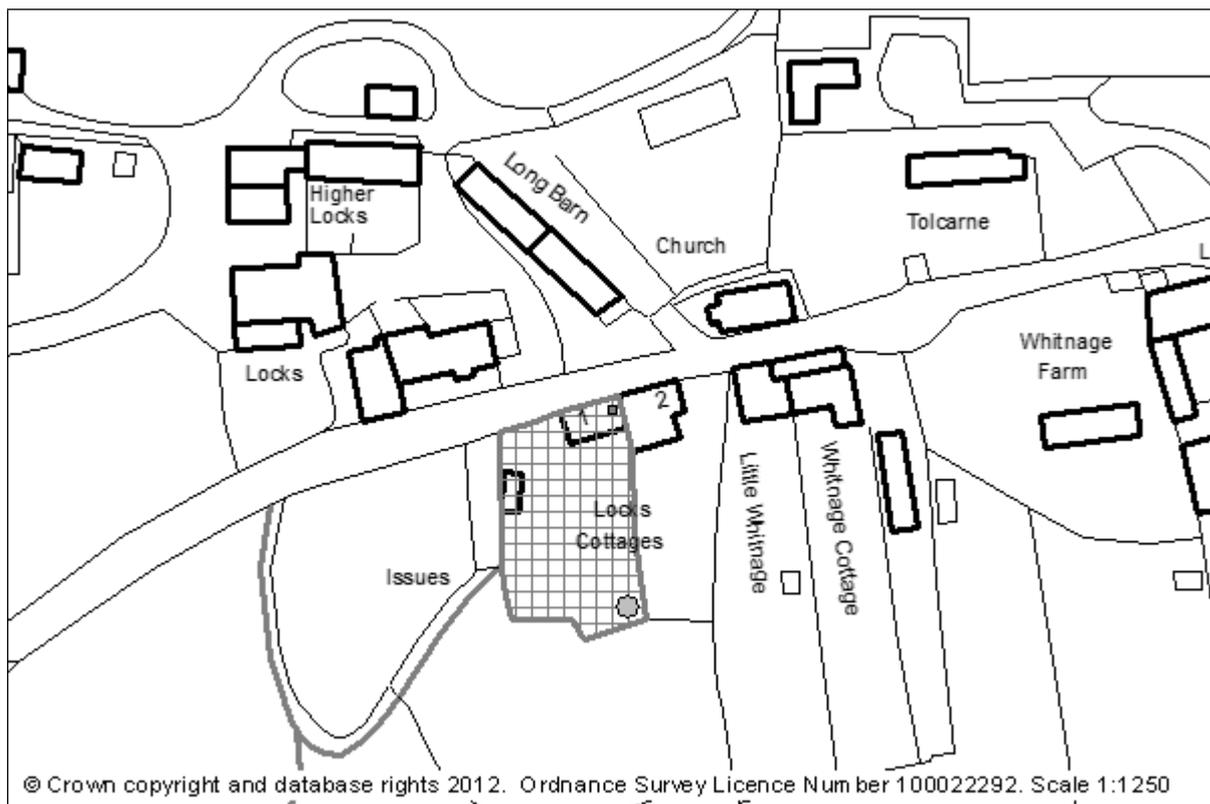
Grid Ref: 302591 : 115648

Applicant: Mr & Mrs McCombe

Location: 1 Locks Cottage  
Whitnage  
Tiverton  
Devon

Proposal: Erection of shed

Date Valid: 10th September 2018



## **APPLICATION NO: 18/01393/HOUSE**

### **RECOMMENDATION**

Grant permission subject to conditions

### **PROPOSED DEVELOPMENT**

Erection of garden/domestic shed

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

Site location plan, block plan, proposed floor plan and elevations, design and access statement.

### **RELEVANT PLANNING HISTORY**

92/01144/LBC - PERMIT date 11th August 1992  
Listed Building Consent for the erection of single storey extension  
96/01327/LBC - PERMIT date 28th October 1996  
Listed Building Consent for the replacement of two windows on ground floor and three on first floor in treated softwood of a similar style  
79/01323/FULL - PERMIT date 14th August 1979  
Erection of a garage  
11/00674/FULL - WDN date 14th July 2011  
Erection of single storey extension to rear  
11/00675/LBC - WDN date 14th July 2011  
Listed Building Consent for the erection of a single storey extension to rear  
11/01331/FULL - PERMIT date 6th October 2011  
Erection of single storey extension to rear  
11/01332/LBC - PERMIT date 6th October 2011  
Listed Building Consent for the erection of a single storey extension to rear

### **DEVELOPMENT PLAN POLICIES**

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

COR18 - Countryside

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

DM2 – High quality design

DM13 – Residential extensions and ancillary development

DM27 – Development affecting heritage assets

### **CONSULTATIONS**

Uplowman Parish Council: 1<sup>st</sup> October 2018

This application was considered at Uplowman PC's meeting on 20 September and this council has no objection to it.

Highway Authority: 25<sup>th</sup> September 2018

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

Environment Agency: Householder development and alterations within Flood Zone 1 - No EA consultation required.

## **REPRESENTATIONS**

No letters of representation have been received at the time of writing the report.

## **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

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

- 1) Policy
- 2) Design and appearance of the proposal
- 3) Impact of the proposal on the listed building and neighbouring properties

### 1) Policy:

The site is located outside of any defined settlement limits outlined in policies COR13-15, as such the proposal is considered to be located in a countryside location as defined by policy COR18 of the Mid Devon Core Strategy (Local Plan part 1). Policy DM13 of the Mid Devon Local Plan part 3 (Development Management Policies) provides in principle support for residential extensions and ancillary development where the proposal can demonstrate that it a) respects the character, scale, setting and design of the existing dwelling; b) will not result in over-development of the dwelling curtilage; and c) will not have a significantly adverse impact on the living conditions of occupants of neighbouring properties.

### Design and appearance of the proposal

The proposed shed is to be used for storage of wood, garden equipment, bikes etc. with a work bench area. The proposed shed will be used for purposes incidental to the main dwelling house.

The proposed shed is small scale measuring 3.3m x 4.5m. The height to eaves level will be 2.2m with an overall height to ridge level of 3.3m. Planning permission for the shed is required due to the shed being proposed in the curtilage of a listed building.

The property itself is a two storey stone/cob semi-detached property with thatched roof which is Grade II listed. The shed is to be located at the southern end of the garden approximately 23m from the rear of the house.

The proposed materials for the shed include timber walling (installed vertically) with a natural finish to be left to weather naturally with reclaimed clay tile roof. The front of the shed includes a set of double doors to enable ease of access for garden equipment/ bikes with two long windows on either side of the doors. On the north elevation facing into the garden a long window (vertical) is proposed and on the south side elevation facing the boundary a horizontal long window is proposed. No windows or doors are proposed on the rear (west) elevation.

The proposal is considered to be well designed and respects the character and appearance of the listed building and the surrounding area. As such, the proposal is in accordance with policies DM2 and DM13 of the Mid Devon Local Plan part 3 (Development Management Policies).

### Impact of the proposal on the listed building

The proposed shed is sensitively located in an area of the garden where ground levels in relation to the main dwelling and the neighbouring garden are at their lowest.

The Conservation Officer has been consulted. In the context, the Conservation officer does not find the shed to be harmful to the setting of the listed buildings subject to appropriate colour finishes. As the shed it to be untreated there are no objections to the proposal.

It is not considered that the proposal will have any adverse impacts on either the setting of either the Grade II listed host property of the adjoining listed property. It therefore complies with the National Planning Policy Framework and policy DM27 of the Mid Devon Local Plan part 3 (Development Management Policies).

The proposed shed would have no adverse impacts on occupants of neighbouring residential properties.

### **CONDITIONS**

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

### **REASONS FOR CONDITIONS**

1. In accordance with Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
2. For the avoidance of doubt and in the interests of proper planning.

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

The proposed shed in terms of its scale, design and position is considered to be supportable in policy terms. The proposal is considered to respect the character, scale, setting and design of the existing dwelling. The proposal would not result in over development of the curtilage and it is not considered that there would be any significant adverse impacts on the living conditions of occupants of the neighbouring properties. Overall the proposal is considered to comply with the following policies; Mid Devon Core Strategy (Local Plan part 1) COR18 of the Local Plan part 3 (Development Management Policies) DM2, DM13, DM27 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. 18/01243/LBC

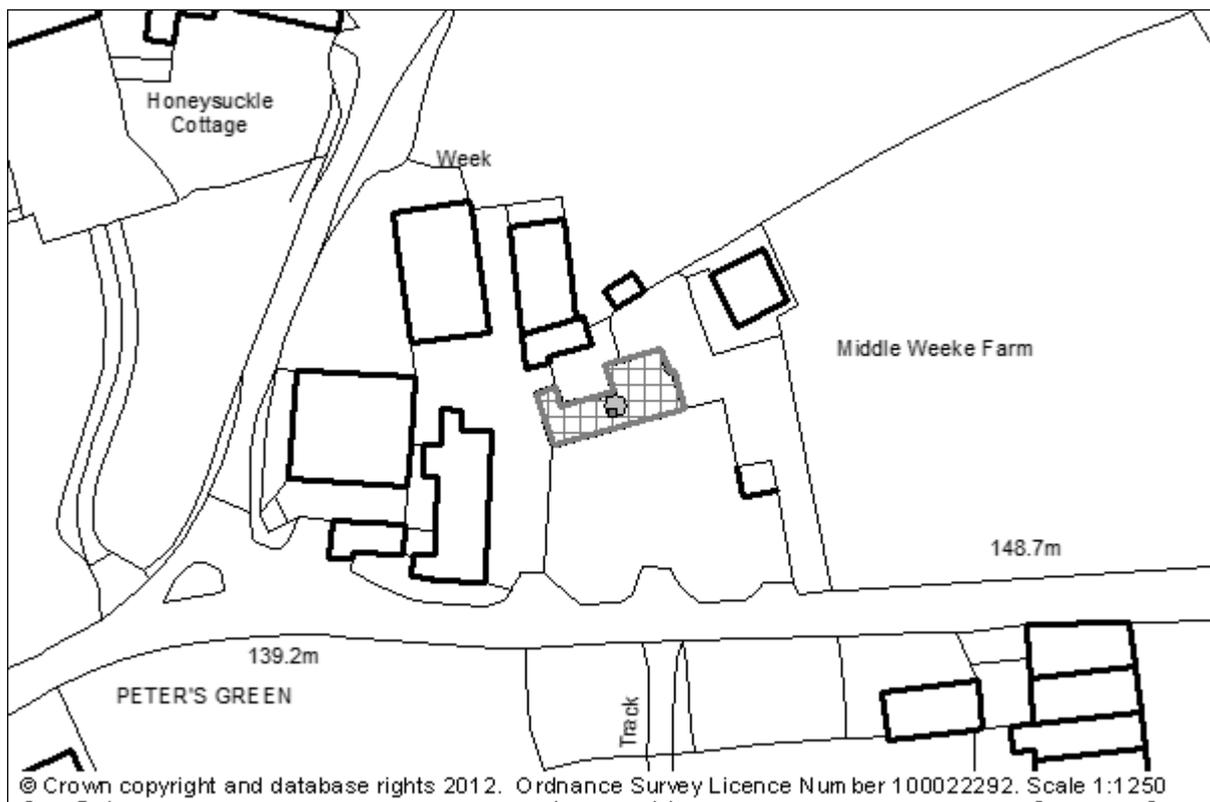
Grid Ref: 276208 : 106245

Applicant: Mr & Mrs J Daw

Location: Middle Weeke Farm  
Morchard Bishop  
Credon  
Devon

Proposal: Listed Building Consent for replacement windows

Date Valid: 15th August 2018



## **APPLICATION NO: 18/01243/LBC**

### **RECOMMENDATION**

Refuse Consent

### **PROPOSED DEVELOPMENT**

Listed Building Consent for replacement windows (Retrospective)

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

A summary of the statement made of behalf on the applicant is set out below:

Mr and Mrs Daw are applying to Mid Devon District Council, retrospectively for Listed Building Approval to retain windows recently installed. These proposals relate to the complete replacement of window units on the principle, south elevation of the building

Mr and Mrs Daw declare that they were unaware that Middle Weeke was a listed building at the time of the instigation of these works.

The Applicants first moved into the family home, Middle Weeke in 1998 taking on the management of the holding. Prior to their occupation of the farmhouse and in the 1960's the Family had carried out extensive works to the property. These works included the replacement of the roof covering with a single monolithic roof in concrete interlocking tiles.

Windows to the south elevation were completely replaced with softwood timber double hung single glazed sash windows. Works which "modernised" the property changing the external appearance of the building away from that as original.

In 1985 the property was listed; the applicants family were unaware and not appraised of this procedure and have only recently seen The Listing, for the first time.

The applicant questions the validity of the listing and furthermore notes the seven windows provided to the front in the 1960's being single glazed windows with loose hung sashes proving thermally inefficient to the detriment of the property.

Despite regular maintenance the timber frames were rotted, beyond economic repair and performed poorly thermally with single glazed loose double hung sashes.

The applicants looked at specifying the most favourable material to ensure longevity of the works, reduce future maintenance costs and to improve thermal properties reducing the properties carbon footprint.

With the works specified contractors appointed and work nearing completion the intervention of a local planning officer to advise of the properties listed building status came as a complete surprise. At the time of the LPA visit the new windows were in situ, the re-rendering largely complete. To ensure that the building remained weathertight the rendering works continued to completion.

Further discussion has taken place with the LPA and a formal comment on the works has been received. This advice was that the LPA confirm that the new windows constitute a breach of planning controls. In addition the was advised that the use of UPVC inappropriate for use on the listed building by virtue of the material, and window design including the

thickness of the frame. The development as completed is considered by the LPA to be contrary to Policy DM27 of the Local Plan Part 3 (DMP).

This application seeks approval to retain the installed windows as they consider with the works completed, the applicants cannot agree with the LPA assessment of the works.

The applicants consider that the earlier replacement windows made no effort to retain the original design which together with the new roof significantly changed the appearance of the property.

No structural changes have been made and all frames provided under existing lintels and to existing openings. The former windows were sliding sash windows with weight and pulleys in boxes and deep bottom and meeting rails. The applicants consider the new windows emulate that aspect of the design.

The windows as provided have been installed by a local contractor in a durable material as "MB Frames" Traditional 2500 – "A" rated UPVC windows with Argon filled double glazed units improving significantly the thermal performance of the windows. This thermal upgrade is considered to enhance the structure lowering its carbon footprint to the benefit of the environment.

The applicant considers that the provision of the replacement windows has not brought about the alteration and/or destruction of part of the heritage asset as the original windows were lost by their replacement in the 1960's.

Associated with the replacement of the windows, the external walls have been re-rendered replacing inappropriate cement render areas with a traditional lime render finish that the applicant consider is a positive contribution to the building.

## **RELEVANT PLANNING HISTORY**

77/01513/FULL - PERMIT date 29th November 1977

Removal of barn, construction of new access and improvement of two existing entrances

18/01205/FULL - PDE date

Erection of extension to livestock building

18/01243/LBC - PCO date

Listed Building Consent for replacement windows

## **DEVELOPMENT PLAN POLICIES**

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

DM27

## **CONSULTATIONS**

MORCHARD BISHOP PARISH COUNCIL - The Parish Council is in favour of upholding the rules and principles of LBC.

## **REPRESENTATIONS**

None

## **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

The principle issue to be considered is the unauthorised removal of the timber windows which were consistent in appearance and style with the architectural and historic interest of the property. These windows were painted timber, putty held single glazed, double hung sliding sash windows with weights and pulleys including distinctive vertical glazing bars and side lights to the two wider ground floor windows, and their replacement with UPVC double glazed units.

The replacement windows are in UPVC a non traditional material which is considered inappropriate for use on the listed building by virtue of the modern extruded UPVC material with its dull appearance, heavy thickness and profile of the frames, and double glazed units that give a double register visual appearance. The glazing bars are false and not integral being placed onto the surface either side of the large undivided glass units. In addition the design and opening form of the replacement windows is inconsistent, with a mixture of side casements and top hung opening windows.

The principles for preservation of listed buildings is established in the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990 Section 1 which advises that buildings are listed for their architectural and historic interest and National Planning Policy Framework paragraph 193 advises that when a local planning authority is considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.

There is a recognised approach to conservation of the listed building fabric that seeks firstly to conserve existing, in this case windows, through repair and only when its proved otherwise to look for like for like replacement of windows on an individual basis.

The applicant has failed to provide adequate justification that any of the previous timber windows were beyond reasonable repair or reasons why a like for like replacement window was not provided.

The installation of the replacement windows is considered to introduce fabric which is of less than substantial harm to the significance of the listed building for reasons including their inappropriate material, profile, opening form, double glazing and styles that do not respect the appearance of the previous timber windows. In addition it is not considered that a robust justification has been submitted to support the alterations.

For these reasons the development as completed is considered to be contrary to the aims and objectives of good conservation practice and contrary to the National Planning Policy Framework paragraph 196 and Mid Devon District Council Policy DM27 of the Local Plan Part 3 (DMP), for the reason as set out below.

### **Recommendation A: REASON FOR REFUSAL of listed building consent**

1. The replacement UPVC windows on the front (south) elevation of Middle Weeke Farm House have been installed without appropriate justification or regard to the impact of the alterations on the heritage asset and are considered to be harmful to the character and appearance of the grade II listed building by virtue of the material and the overall design including thickness and profile of the and the double glazed arrangement. The development is therefore contrary to the provision of policy DM27 of the Local Plan part 3 (Development Management Policies).

## **Recommendation B: Proposed course of action for enforcement action**

2. That Members, having regard to the provisions of the Mid Devon Development Plan and all other material planning considerations in accordance with Sections 38 and 42 of the Planning (Listed Buildings and Conservation Areas) Act 1990, ("the Act") should grant authority to the Group Manager for Legal Services to take all such steps and action necessary to secure the removal of the unauthorised window frames and secure replacement frames the design of which should reflect those that have been removed. This may include the issuing of a listed building enforcement notice. The reason as recommended for serving the notice if that is required is set out above.

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. 18/01381/LBC

Plans List No. 3

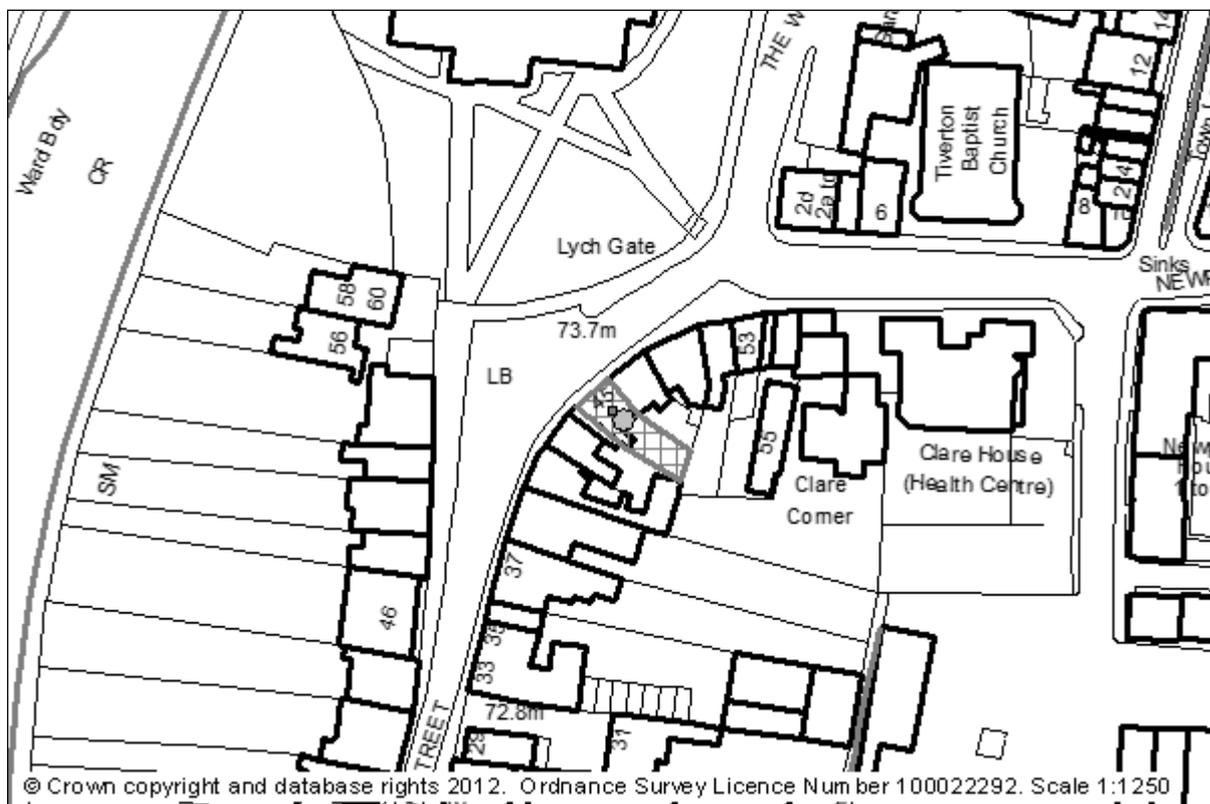
Grid Ref: 276208 : 106245

Applicant: Mrs J Harris

Location: 45 St Peter Street  
Tiverton  
Devon

Proposal: Listed Building Consent for the uPVC window in attic dormer, uPVC fascia and erection of lean-to

Date Valid: 14th September 2018



## **APPLICATION NO: 18/01381/LBC**

**This application has been called in by Councillor Brenda Hull so the Planning Committee can consider whether or not the harm that the retention of the UPVC windows, guttering and fascias has on the listed building is acceptable.**

## **RECOMMENDATION**

Refuse Listed Building Consent

## **PROPOSED DEVELOPMENT**

Listed Building Consent for replacement windows in second floor dormers, glazed roof lean to and uPVC fascia (Retrospective)

## **APPLICANT'S SUPPORTING INFORMATION**

This is a terraced grade II listed building in a conservation area. The application for retention of the windows and lean-to as described on the application does not impact on the local area, there is no visibility from the main rear of St Peters Street, and the property is not overlooked to the rear, or accessed by anyone other than the owner.

Redecoration of windows in this situation would be very difficult, due to height of the building and access to them. They are dormer windows situated at the rear of the property on the second floor and do not impinge on the overall visual impact of the building. The windows are an asset in the retention of this property as a home.

Reference the application for retention of the glazed lean to and extended fascia, also situated at the rear of the property. The same difficulty in regard to maintenance of this structure applies if it were replaced in timber. The glazed structure is attractive and shelters a downstairs window, paved area, rear steps and a glazed door and drain in the basement area. The glazed lean to is an additional asset in protecting the rear of the property.

## **RELEVANT PLANNING HISTORY**

There is no previous planning history for this property.

## **DEVELOPMENT PLAN POLICIES**

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

DM27 – Development Affecting Heritage Assets.

## **CONSULTATIONS**

Tiverton Town Council: Tiverton Town Council wishes to express its concerns that this appears to be a retrospective application for a listed building. The Council feels that as it is a listed building within a Conservation Area the materials used should be in keeping, and that UPVC is not in keeping. Tiverton Town Council therefore cannot support this application

## **REPRESENTATIONS**

One letter of support has been received from a neighbour. The main points made are

- He would not support the use of uPVC at the front of properties in full public view.
- He can see no use to apply the policy to the rear of buildings where it cannot be seen and would not impact on the local area. He feels those residents who could see it would be content
- Redecoration of timber windows would be very difficult given the height of the dormers and limited space for ladders of scaffold.
- He is of the view that Town Council has missed the point that the application relates to the rear which cannot be seen by the general public.

## **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

St Peter Street is in the Tiverton Conservation Area, and has a remarkably high density of listed buildings. 45 and 47 St Peter Street are a pair of houses, opposite the Church, with one listing. They were first listed in 1972.

The application has been submitted by the owner of the property and no drawings have been submitted. There is one photograph of part of rear of the house. The application forms are clear that this is a retrospective application requested for retention of two UPVC windows fitted in attic dormers by the previous owner. The retrospective application also includes the proposed retention of a glazed lean to with UPVC between the glazing panels, and UPVC fascia extending across historical extension which is now used as a utility room. These were also fitted by the previous owner.

This application has two key elements: Retention of two replacement windows and a rear lean to, all of which are uPVC.

The two replacement windows are dormer windows to the rear at the second floor. The understanding is that they were replaced before the current owner bought the property. To that end there is no evidence of the windows that were there before, but given the date of first listing and the clear modern nature of the windows and the depth of the glazing units there now, they were fitted recently and without consent. It is assumed that the previous windows were side hung rebated casements of a traditional form. This is concluded from referring to the adjoining properties, the shape of the window opening, and from a knowledge of the building form.

In this case we are considering whether the material and design of the replacement windows is appropriate for a listed building which is clearly of special architectural and historic interest and of national interest, and worthy of being listed.

The principles for preservation of listed buildings is established in the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990 Section 1 which advises that buildings are listed for their architectural and historic interest and National Planning Policy Framework paragraph 193 advises that when a local planning authority is considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. This supports the statutory duty on the LPA to both 'have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses' and that special attention shall be paid in the exercise of planning functions to the desirability of preserving or enhancing the character or appearance of a conservation area. The Courts have stated that this must be given considerable weight and importance.

Policy DM27 Local Plan Review states that heritage assets and their settings are an irreplaceable resource and sets out the Councils approach to assessing development

proposals that would have an impact on a heritage asset. At criteria (d) the policy states that where a development proposal would lead to less than substantial harm, that harm will be weighed against any public benefit.

Members will be aware that the whole of the building is listed, front and rear, and internally also. Consent is required for works that affect the character, and consideration of applications is based on their impact on the special interests of the building, not whether the proposal can be seen from a public place, or any additional expense in terms of maintenance.

Members may also be aware of a recent appeal which was dismissed relating to the installation of 5 uPVC windows in a listed building in the Mid Devon District, on the basis of lack of justification and harm to the special interests of the building.

There is a recognised approach to conservation of the listed building fabric that seeks firstly to conserve existing, in this case the windows, through repair and only when it is proved that this is not possible, to look for like for like replacement of windows on an individual basis.

The applicant has in this case been unable to provide justification as to why the previous timber windows were beyond reasonable repair or reasons why a like for like replacement window was not provided.

The replacement windows are in UPVC a non-traditional material which is considered inappropriate for use on the listed building. The windows cause harm which is less than substantial by virtue of the modern extruded UPVC material with its dull appearance, heavy thickness and profile of the frames, non-traditional and clumsy sections and joints, and double glazed units that give a double register visual appearance. The glazing bars are false and are internal to the glazing, being between the two layers of glass, and do not respect the appearance of traditional timber windows appropriate to this listed building of national importance.

There is a single storey lean to across one half of the rear of the house. Beside this, and running with the same pitch and depth from the house, is an open sided glazed roof lean to. The form of this is acceptable in principle. The length and depth of the rafters to this indicates they are aluminium with an uPVC cover strip. The fascia, soffit and square (as opposed to a traditional half round) rainwater goods are all white uPVC. These have a shiny plastic finish and are not traditional. They are utilitarian in their form and finish, and are quite out of place in this historic context.

The proposals as submitted are considered to be contrary to the aims and objectives of good conservation practice and contrary to the National Planning Policy Framework paragraph 196 and Mid Devon District Council Policy DM27 of the Local Plan Part 3 (DMP), and to fail to meet the statutory tests of the Listed Building and Conservation Areas Act.

### **Recommendation A: REASON FOR REFUSAL of listed building consent**

1. The replacement UPVC dormer windows on the rear (east) elevation, and the uPVC fascia, soffit and rainwater goods to the lean to at the rear of 45 St Peter Street, have been installed without appropriate justification or regard to the impact of the development on the heritage asset and are considered to be harmful to the character and appearance of the grade II listed building by virtue of the material and the overall design including thickness and profile of frames and double glazed units of the windows. The development is therefore contrary to the provision of policy DM27 of the Local Plan part 3 (Development Management

Policies), the general thrust of Chapter 16 of the NPPF and the statutory duties of the Listed Building and Conservation Areas Act.

### **Recommendation B: Proposed course of action for enforcement action**

2. That Members, having regard to the provisions of the Mid Devon Development Plan and all other material planning considerations in accordance with Sections 38 and 42 of the Planning (Listed Buildings and Conservation Areas) Act 1990, ("the Act") should grant authority to the Group Manager for Legal Services to take all such steps and action necessary to secure the removal of the unauthorised window frames and secure replacement frames the design of which should reflect those that have been removed. This may include the issuing of a listed building enforcement notice. The reason as recommended for serving the notice if that is required is set out above.

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.

### **INFORMATIVES**

Should members agree with the Planning Officer recommendation then it would be expedient to recommend Enforcement Action be taken to resolve the breach of listed building control.

Application No. 18/00414/MFUL

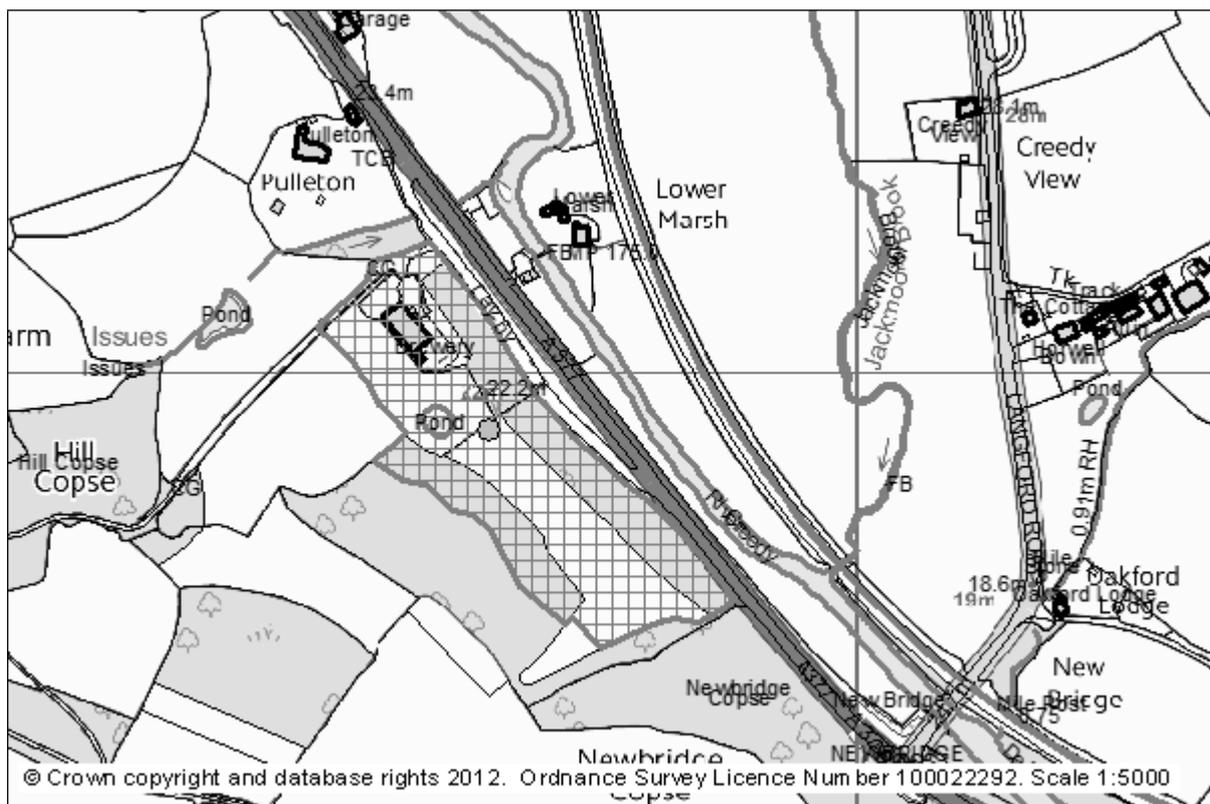
Grid Ref: 289695 : 97019

Applicant: Yellow Hammer Brewing Ltd

Location: Yellow Hammer Brewing Limited  
Hanlons Brewery  
Hill Farm  
Newton St Cyres

Proposal: 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

Date Valid: 28th March 2018



## **APPLICATION NO: 18/00414/MFUL**

### **RECOMMENDATION**

Grant permission subject to conditions and a legal agreement to secure the following:

1. A contribution of £4917 (£447 per holiday lodge) to mitigate the impact of the development on the Exe Estuary Special Protection Area.

### **PROPOSED DEVELOPMENT**

This application proposes three aspects of new development at the Hanlons Brewery, Hill Farm, Newton St Cyres. In addition revised access arrangements to the site are proposed.

1. Erection of extension to existing brewery building,
2. Additional restaurant/bar floor space and outdoor dining area facilities,
3. 11 holiday lodges.

The existing brewery business is located within a bespoke building at the edge of an agricultural field set directly adjacent to, and with access via, a layby directly adjacent to the A377 at Half Moon. Currently the building is laid out with the main brewery production facilities at ground floor level (floor area approximately 326 sqm) with adjoining store (32.5sqm) as well as approximately 31sqm for office space and 56sqm providing lobby/WC/plant room and staff room facilities. Since consent was originally granted for the building, planning permission was granted for the use of a store room at mezzanine level to be used as a function room. This accommodation at mezzanine level includes a modest 15sqm kitchen area and 73sqm as a bar/ function room overlooking the production facilities within the remainder of the building. The existing building is of relatively modern construction, clad in timber with a metal sheet roof and solar panels to the rear roof slope, it is set above the level of the highway into the rising slope of the land. Access is achieved from the A377 via a large layby which leads to the private drive serving Hill Farm with access from this into a concrete parking area leading to the service yard at the southern end of the building.

The south and west of the building is surrounded by agricultural land which forms the application site, to the eastern boundary existing tree planting provides a buffer between the site and the adjacent highway. To the north is a residential property (The Old Dower House).

The site area as proposed extends to approximately 3.5 hectares on steeply sloping land with the A377 highway to the east of the site and the River Creedy beyond. Further details of the application scheme are set out below:

1. The proposed extension includes the provision of a new building to the south of the existing building which will be adjoined to the existing building by a canopy covering the intervening service yard. The proposed extension will continue the ridge height of the existing building such that it presents as a continuous built form, albeit the eaves of the yard canopy are set back to allow access and turning by HGV's. The proposed extension will be constructed with vertical timber cladding and trapezoidal profile steel roof sheets. It will be accessed via a roller shutter style door from the covered yard area and personnel doors to the front and rear elevations.

2. In terms of the alterations to provide additional restaurant/bar floor space, amended entrance arrangements and outdoor dining area it is proposed to extend the internal mezzanine level to provide an enlarged bar/ restaurant area (113sqm) with associated kitchen, toilets and store room areas (67sqm). This represents a modest increase of 92.0 sqm). In addition it is proposed to include a terrace style external seating area at the northern end of the building with access from the mezzanine bar area via a new enclosed lobby extension. Access to the terrace will also be available via steps from the higher level land at the rear, from the adjacent grassed area (proposed to be a children's play area) and lift access is proposed from ground floor level at the front of the building.

3. The application also seeks consent for the erection of 11 holiday lodges which are proposed to be sited within the field to the south of the site. It is proposed to provide a new access track to the rear of the existing brewery building to serve the lodges which will adjoin the existing private lane approximately 55m to the west of the existing site entrance. Plans for two different lodges are proposed, one two bedroom design and one three bedroom design, both are single storey, approximately 3.9m high to ridge. The proposed two bedroom unit is 12.792m long (excluding decking area) and 3.962m wide. The three bedroom unit is proposed to be 13.716m long and 6.096m wide. The cabins will be laid out with two rows in a linear arrangement; they will be set into the rising slope of the land with retaining structures at the rear. The lodges will be linked by a pedestrian footway and an informal footpath route will link the southern end of the site to an existing public footpath to the west of the site.

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

Arboriculture Survey by Ecological Surveys Ltd

Bat Activity Report by Ecological Surveys Ltd

Ecological Appraisal by Ecological Surveys Ltd (March 2017)

Ecological Appraisal by Ecological Surveys Ltd (July 2017) - NB this relates to land which is not included within the application site.

Great Crested Newt Survey by Ecological Surveys Ltd

Design and Access Statement and Landscape and Visual Appraisal by Clifton Emery Design and Jillings Heynes Planning

FDA1 Form

Letter from Hoseasons

Transport Statement by Gregg Consulting Ltd (February 2018)

Hanlons Business Slide Deck

#### **RELEVANT PLANNING HISTORY**

13/00282/FULL - PERMIT date 26th June 2013 Erection of a sustainable brewery building, formation of access road, concrete yard, parking and associated works NON MATERIAL AMENDMENT GRANTED 19TH AUGUST 2013

13/00282/FULL/NMA - PERMIT date 19th August 2013 Erection of a sustainable brewery building, formation of access road, concrete yard, parking and associated works (Re-positioning of building and yard 10 metres in an eastwardly direction)

13/01384/DET - CLOSED date 22nd October 2013 Licensing application

14/00470/DET - CLOSED date 23rd April 2014 Licence

14/00396/ADVERT - PERMIT date 15th May 2014 Advertisement Consent for the display of a non-illuminated name sign at entrance and on building

14/01405/FULL - PERMIT date 23rd October 2014 Use of existing store room as a function room (associated with the Brewery)

15/00450/FULL - REFUSE date 3rd June 2015 Installation of balcony and access ramp (APPEAL DISMISSED 12.02.16)

## **DEVELOPMENT PLAN POLICIES**

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

COR1- Sustainable Communities  
COR2- Local Distinctiveness  
COR4- Meeting Employment Needs  
COR9- Access  
COR11- Flooding  
COR18- Countryside

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

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

DM1- Presumption in favour of sustainable development  
DM2- High quality design  
DM7- Pollution  
DM8- Parking  
DM20- Rural employment development  
DM24- Tourism and leisure development  
DM30- Other protected sites

## **CONSULTATIONS**

NEWTON ST CYRES PARISH COUNCIL- 7<sup>th</sup> May 2018-

Newton St Cyres Parish Council considered this application at its May meeting. Firstly, Councillors would like to be sure that there are enough parking spaces allocated. Parking must be adequate for both holiday lodge visitors and brewery visitors. We understand that on occasions on Friday evenings, the lay-by outside the brewery can be busy. Secondly, Councillors would like to request that the provision of a footpath from the lay-by up to the bus stop is a condition of the planning approval. Councillors consider the provision of a footpath to be a health and safety necessity. Lodge visitors (many will have children) who wish to catch the bus would at present be faced with a difficult and dangerous journey up/down a narrow, uneven, grass verge, where a wrong step or stumble could lead to them stepping into the busy A377 main road. Not only are the current arrangements to the bus stop a danger for lodge visitors, they are a danger for customers of the brewery who may also wish to travel to and from the brewery by bus. Indeed it is to be hoped that travel to a brewery by bus will be encouraged rather than discouraged. The expansion of the brewery and restaurant facilities mean more visitors which increases the likelihood of bus journeys. Many of these bus journeys will be at night, so it is essential that lighting is also considered for the footpath and made a condition of the planning approval.

7<sup>th</sup> September 2018- Newton St Cyres Parish Council considered further information in relation to the surface water drainage arrangements that had been submitted by the applicant at its meeting on 6 September 2018 and made no further comments.

PUBLIC HEALTH- 20<sup>th</sup> April 2018-

Contaminated land - No objection  
Air quality - No objection  
Environmental permitting - No objection  
Drainage - No objection

Noise and other nuisances - No information has been included in regards to any noise mitigation measures in order to reduce the impact of people noise from the proposed balcony area on the nearest noise sensitive dwelling. Without this information the recommendation is that the application should be refused.

Housing standards - No comment

Licensing - This will require either a new premises licence or a variation to the existing licence (MDV PRO343) for further information please contact the licensing team via email [licensing@middevon.gov.uk](mailto:licensing@middevon.gov.uk) or by telephone 01884 255255

Food hygiene - no objection to this proposal. Informative: Please ensure the kitchen has sufficient capacity to cope with the increase in numbers, there are a variety of ways this can be managed. If there is a significant change to the kitchen please contact the Environmental Health Department for advice on compliance and a visit will be required.

Private water supplies - A private supply is used on this site. An Extraction licence may be required from the Environment Agency depending on water extraction volumes.

Health and safety - No objection - enforced by HSE

22<sup>nd</sup> June 2018- Following submission of a noise assessment the following additional comments were received from the Councils Public Health team;

The noise assessment details the sound power levels for people with raised voices using the proposed terrace but it doesn't look at the impact of any louder levels i.e. loud voices or shouting. In a worst case scenario environmental health envisages that some 'normal' customers (particularly where alcohol is involved) when using the proposed terrace are likely to start using loud voices with the occasional shouting. The sound power levels for loud voices are documented to be more in line with 87 dB LWA and occasional shouting at 95 dB LWA. This will cause an increase in the sound levels at the nearest residential properties. The noise mitigation proposals will reduce the sound levels at the nearest residential properties however, I do not believe that the solid balustrade at a height of 1.8m to the north and east of the terrace will be high enough to reduce the sound to an acceptable level. For this to be achieved Environmental Health recommends that the balustrade is raised to a height of 2m in order to offer a higher degree of sound mitigation against higher sound levels from people stood in groups. Therefore the recommendation is to approval with the following condition:

1. Before the use hereby permitted commences, the East and North elevations of the terrace must be fronted by a solid balustrade. The height of the solid balustrade must be at least 2m high. An absorbent acoustic cladding must be applied to the North facing gable wall in order to avoid the wall reflecting sound towards any nearby residential dwellings. Details of the balustrade and absorbent acoustic cladding are to be submitted to and approved in writing by the Local Planning Authority or, in default, by the Secretary of State for the Environment.

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

31<sup>st</sup> August 2018- The whole development has been considered against the impacts of noise however, it was felt that the main area of concern was the balcony area. We do not have concerns with the play area. If the grassed area is going to be used for the consumption of alcohol then the area can be controlled through the licensing regime.

NATURAL ENGLAND- 20th April 2018 - In line with the South East Devon European Sites Mitigation Strategy (SEDESMS) and the Joint Approach of your authority Statutory nature conservation sites - No objection subject to securing mitigation Habitats Regulations Assessment - Recreational Impacts on European Sites This development falls within the 'zone of influence' for the Exe Estuary SPA, as set out in the Local Plan and the South East Devon European Sites Mitigation Strategy (SEDEMS). It is anticipated that new housing development in this area is 'likely to have a significant effect' upon the interest features of the SAC/SPA, when considered in combination, through increased recreational pressure. In line with the SEDEMS and the Joint Approach of Exeter City Council, Teignbridge District Council and East Devon District Council, we advise that mitigation will be required to avoid

such an effect occurring and enable you to reach a conclusion of "no likely significant effect". You should not grant permission until such time as this mitigation has been secured. Providing appropriate mitigation is secured to avoid impacts upon the European site occurring there should be no additional impacts upon the SSSI interest features of Exe Estuary SPA.

HIGHWAY AUTHORITY- 23<sup>rd</sup> May 2018-

The Highway Authority has no objection in principle but would seek a footway between the site and the bus stops to satisfy sustainability of the site and reduce its reliance on the private motor vehicle. There are some 64 car parking spaces provided in the site an increase in 50 spaces these are sufficient to cover the holiday accommodation, however from the information provided and the LPA standards it is difficult to determine if there is sufficient for the additional covers, as the square meterage of the restaurant element is not separated from the general B2 usage. Notwithstanding this there will be a surplus from the tourist accommodation standard (31) attributed to this application with some 33 spaces for the restaurant, this coupled with the new link to public transport should be sufficient as the standard for Tourist accommodation is on the high side when considering holiday lets as opposed to hotel and there will be additional unused spaces associated with that use. The Highway Authority would generally accept 1 space per Holiday let so this has the potential to provide 20 additional spaces for the restaurant. The applicants would be encouraged to develop a travel plan for staff and encourage use of alternative transport modes to the site, this is advisory only. While concern that overflow car parking may take up the lay by which is required for residential properties in the evenings there is no restriction on its use should the need arise. But I would ask the LPA to seek the area of restaurant to establish that standards are met or that the overall car parking is acceptable. The HA considers that 11 spaces for the holiday lets ,11 for the staff and 43 for the restaurant covers would be sufficient, but the LPA may wish to see an area of informal land set aside for overflow parking should the need arise.

Recommendation:

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

1. Off-Site Highway Works No development shall be brought into its intended use until the off-site highway works for the provision of footway connections to the bus stops has been constructed and made available for use.

REASON: To minimise the impact of the development on the highway network in accordance with paragraph 32 of National Planning Policy Framework

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

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

FLOOD and COASTAL RISK MANAGEMENT TEAM - 27th April 2018 -

At this stage, we object to this planning application because we do not believe it satisfactorily conforms to Policy DM2, specifically part (f), of Mid Devon District Council's Local Plan (Adopted October 2013), which requires developments to include sustainable drainage systems. The applicant will therefore be required to submit additional information in order to demonstrate that all aspects of the proposed surface water drainage management system have been considered.

5<sup>th</sup> October 2018- Our objection is withdrawn and we have no in-principle objections to the above planning application at this stage, assuming that the following pre-commencement planning conditions are imposed on any approved permission:

1. No part of the development hereby permitted shall be commenced until the detailed design of the proposed permanent surface water drainage management system has been submitted to, and approved in writing by, the Local Planning Authority, in consultation with Devon County Council as the Lead Local Flood Authority. The design of this permanent surface water drainage management system will be in accordance with the principles of sustainable drainage systems, and those set out in the Hanlon's Brewery, Newton St Cyres, Foul and Surface Water Drainage Strategies, February 2018 Rev C dated August 2018.

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

Reason for being a pre-commencement condition: A detailed permanent surface water drainage management plan is required prior to commencement of any works to demonstrate that the plan fits within the site layout, manages surface water safely and does not increase flood risk downstream.

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

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

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

Reason for being a pre-commencement condition: A plan needs to be demonstrated prior to the commencement of any works to ensure that surface water can be managed suitably without increasing flood risk downstream, negatively affecting water quality downstream or negatively impacting on surrounding areas and infrastructure.

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

3. No use of the proposed development should be commenced until the connection to and repair of the existing Highway drainage culvert to the outfall has been designed, and implemented to the written approval of the Highway Authority.

Reason: To comply with the Flood and Water Management Act (2010)

Reason for being a pre-commencement condition: The existing highways drainage culvert requires repair work to be undertaken in order to reduce the risk of highways flooding or flooding on the site itself as well as to establish a viable surface water management drainage system.

Observations:

Following my previous consultation response FRM/MD/00414/2018, dated 26th April 2018, the applicant has submitted additional information in relation to the surface water drainage aspects of the above planning application, for which I am grateful.

- Hanlon's Brewery, Newton St Cyres, Foul and Surface Water Drainage Strategies, February 2018, RevC August 2018
- Email dated 2nd October 2018 from Karl Pitman to Helen Montgomery in relation to DCC Highways 'in principle agreement' of surface water discharge to their culvert subject to appropriate works being carried out by the applicant.

The revised Foul and Surface Water Drainage Strategy Rev C answers the queries raised in my previous response. The proposal complies with the principles highlighted in the surface

water management hierarchy and proposes the use of an above ground feature and swale to provide both treatment and attenuation. The attenuation calculation also takes account of the long term storage requirements. The swale is required in addition to the attenuation basin to provide the required level of treatment to the car park area. The attenuation basin should be designed with 1 in 3 side slopes and with a freeboard of 300 mm.

ENVIRONMENT AGENCY- 11<sup>th</sup> May 2018-

We object to the application on grounds that insufficient information has been submitted to demonstrate that the proposed private package treatment plant is justified in this location and, if so, is viable and will not be detrimental to the environment. We recommend that the application is not determined until a satisfactory Foul Drainage Assessment has been submitted.

Reasons - Foul drainage

The information submitted with the application indicates that foul drainage will be disposed of to a non-mains foul drainage system. Government guidance within the National Planning Practice Guidance (paragraph 020 in the section on water supply, wastewater and water quality - Reference ID: 34-020-20140306) stresses that the first presumption must be to provide a system of foul drainage discharging into a public sewer to be treated at a public sewage treatment works. Only where having taken into account the cost and/or practicability it can be shown to the satisfaction of the local planning authority that connection to a public sewer is not feasible, should non-mains foul sewage disposal solutions be considered. We note that the site is located approximately 300m from the nearest public sewer, so it is important that the applicant provides sufficient justification as to why their development cannot connect to the mains sewer.

Paragraph 20 also states that 'applications for developments relying on anything other than connection to a public sewage treatment plant should be supported by sufficient information to understand the potential implications for the water environment'. Any planning application for a non-mains system should therefore be accompanied by a Foul Drainage Assessment (FDA) form including a justification for why connection to the mains sewerage system is not feasible and sufficient information to demonstrate that the proposed system will be viable in this location and will not be detrimental to the environment. Sufficient information in this instance would normally include the provision of the following: Full details of the proposed flows (based on Flows and Loads 4); A plan showing the location of the proposed treatment plant and appropriate discharge point; The FDA form is available online at <https://www.gov.uk/government/publications/foul-drainage-assessment-form-fda1>. In the absence of this information we advise that the proposal is unacceptable because it does not provide a sufficient basis for an assessment to be made of the risks of pollution to the water environment arising from the proposed development.

13<sup>th</sup> September-

Following submission of the revised Foul and Surface Water Drainage Strategy (prepared by Pitman Associates, dated February 2018) we can remove our objection to the proposed development as laid out in our previous response (Ref: DC/2018/119700/01-L01, dated 10 May 2018). We have reviewed the revised Foul and Surface Water Drainage Strategy and the assessment of flood risk is acceptable. We have some advice for the applicant- as set out in the advisory notes section.

HISTORIC ENVIRONMENT TEAM - 11th April 2018

Assessment of the Historic Environment Record (HER) and the details submitted by the applicant do not suggest that the scale and situation of this development will have any impact upon any known heritage assets. The Historic Environment Team has no comments to make on this planning application.

DEVON, CORNWALL and DORSET POLICE-

Police have no objections in principle to this proposal. Please note my initial advice and recommendations from a designing out crime, fear of crime, antisocial behaviour (ASB) and conflict perspective:

A sensible and practical level of security, which will not adversely affect the efficiency of the established business is essential. The following measures have all been shown to deter / stop crime and, I would recommend them all to be incorporated, if they aren't already.

The site in my opinion must be secure, including some form of access control at the main entrance to the site. It is my understanding that it is the intention to 'maintain and enhance' the existing boundary trees and shrubs. Given the close proximity to the A377, consideration should be given to enhancing this eastern section of the perimeter to provide both safety and security to the business and lodge residents alike. This could for example, take the form of enhanced banking topped with defensive planting/hedging. I note and welcome the intention to incorporate a lockable barrier or gates at all guest, public, staff and goods car parks and delivery entrance points. This should be backed up with appropriate signed guiding residents and casual visitors alike. There should be no direct 'public' access from the proposed lodges or visitor car park to the existing production facility or outdoor storage area, with guests being directed towards the main 'public' areas of the site. The proposed layout of the lodges will offer reasonable overlooking and active frontages and given the holiday use, I feel this is acceptable from a security view. I also feel the proposed lighting is satisfactory providing it is definitely sufficient to enable visitors to move around safely during hours of darkness.

The mix of on plot and court parking for lodge guests is noted. In terms of actual construction, will the lodges have to be complaint with the new building regulations governing security requirements for doors and windows? If not then the strong advice is that all doors and windows should be to an independently nationally recognised security standard such as PAS 24:2016. It is recommended the indicated play area, (6 on illustrative masterplan), be gated and enclosed with 1m fencing. It is my understanding that the existing CCTV and intruder alarm system is to be extended and upgraded to include the proposed new facilities.

MDDC ECONOMIC DEVELOPMENT OFFICER- 10<sup>th</sup> October- The Growth, Economy & Delivery team supports this planning application. Hanlon's Brewery is a successful, growing business, and fits well within both the food and drink and tourism business sectors which are strategic priorities for the District. The development they are proposing will not only grow their existing activities, but will also strengthen their offer through diversification, making the business more resilient.

## **REPRESENTATIONS**

At the time of writing this report 10 letters of representation have been received; 5 objections, 4 in support and 1 making neutral comments. A summary of the key points below;

### Objections

1. Concern regarding increased level of traffic on the A377
2. Concern regarding increased parking in the layby outside the site which is now used by local residents as a result of recent changes to parking arrangements in the village
3. Not enough parking provision within the site
4. Concern regarding the safety of residents and their vehicles in an area to be used by delivery vehicles
5. There is no pavement between the layby and the bus stop- the narrow and muddy verge is dangerous for users
6. Increased noise disturbance

7. Disturbance from customers waiting for bus late at night
8. Loss of privacy to neighbouring properties
9. The proposed use and scale of development are inappropriate to this location
10. Inadequate drainage arrangements
11. The existing function room is open to the public contrary to the current planning conditions
12. There has been significant scheme creep on the site and it is far beyond a farm diversification scheme.
13. There has been no policy or factual change which would lead the Council to take a different view to the inspector in terms of the impact of the proposed balcony
14. This permission would enable an unfettered public use of the bar and restaurant
15. The proposed mitigation to the balcony would not address the noise issues arising from the use of the outside space by customers
16. People would be able to see into the neighbouring property and garden when the leaves fall from the trees
17. Usually such buildings are found on industrial estates
18. The restrictions on the license have made no impression as they have not been adhered to

#### Support

1. Support the retention of existing jobs and lead to further employment opportunities
2. The extension of the bar/ restaurant area will provide an important local amenity and an invaluable hub for the community
3. The holiday accommodation will increase potential for additional purchases in local shops and leisure facilities
4. The A377 is already busy and the new development is unlikely to generate significant additional traffic and the proposed new access will improve arrangements for turning movements
5. This would be a boost to the local economy
6. There is a lack of places for visitors to stay this side of Exeter, we would welcome a development of quality holiday accommodation as proposed
7. Having a development of 11 holiday lodges nearby would be beneficial to other pub establishments
8. The development of holiday lodges would allow the brewery to thrive and spread the tourism dividend and cost more widely

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

The main issues in the determination of this application are:

1. Policy and principle of development
2. Highway, movement and parking issues
3. Impact on the character and appearance of the area
4. Impact on the amenity of local residents
5. Ecology and protected sites
6. Other- drainage,
7. Summary

1. Policy and principle of development

Applications for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise. The National Planning Policy Framework is one such material consideration. The NPPF seeks to deliver sustainable development and identifies three interdependent strands which should be

pursued in mutually supportive ways; economic, social and environmental.

The site is located in the countryside where policy COR18 seeks to restrict development to enhance the character, appearance and diversity of the countryside while promoting sustainable diversification of the rural economy. It supports agriculture and other appropriate rural uses including appropriately scaled retail, employment, farm diversification and tourism related development.

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

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

Policy DM24 supports proposals for new or expanded tourism, leisure or visitor facilities which will be supported within or adjacent to defined settlements. Elsewhere, the nature of the proposed development must justify a countryside location and minimise environmental impacts, avoiding an unacceptable traffic impact on the local road network. Development proposals must:

- a) Respect the character and appearance of the location;
- b) Where possible, involve conversion or replacement of existing buildings; and
- c) Demonstrate that the need is not met by existing provision within nearby settlements.

The Mid Devon Tourism Study (2014) recognises that by investment in both the number and quality of tourism attractions and accommodation offer, there may be an opportunity to grow both the visitor numbers and spend within the district. The study recognises the opportunities to increase attractions with distinctive characteristics including facilities with quality local food and produce offerings.

The National Planning Policy Framework is supportive of sustainable growth and expansion of all types of business in rural areas including sustainable rural tourism and leisure developments which respect the character of the countryside.

The brewery produces award winning craft beer and has expanded since its inception at this site to now supply to a wide customer base including local pubs, farm shops and national chain pubs and supermarkets. The offering at the site has been developed to include the function room which enables customers to experience how the brewing process operates whilst tasting the produce. At present, the business specialises in cask sales however reflecting market trends the applicants seek to expand the offering of keg and bottled beers. The business currently relies on an external bottling plant which requires booking of production slots in advance and occurs additional expense in terms of bottling, packaging and transport costs. The expansion of the business to include an on-site bottling plant would increase the efficiency of the business, expand the existing product base and reduce seasonal variation of demand arising from reliance of the cask trade to pubs and allow for product development by experimentation of smaller batch brews. It would also allow small breweries in the area to bottle their produce.

At present, the existing function room provides space for customers to taste the brewery

products alongside a food offering, undertake brewery tours and purchase produce and merchandise. At present the function room accommodate approximately 60 guests. The proposed floor plans demonstrate that internally the layout would provide space for seating 84 people (excluding bar stools) and external seating for approximately 24 people. The applicant intends to continue the food offering with local produce prepared and cooked on site utilising produce from the adjacent land holding and utilising the ales within the food to further showcase their product.

The applicants consider that the provision of the holiday accommodation on site will complement the unique offering of the brewery experience within this countryside location. It is intended that the cabins can serve a variety of group sizes including couples, families, friend groups and corporate group events. The cabins will be set within the rural landscape with access to the existing, and extended, brewery facilities. Whilst in a countryside location, the site has good access to the A377 highway and is in relatively close proximity to the services and attractions of Exeter which are accessible by a bus service running at least once per hour through the village. Equally, the bus service provides access to the facilities within Newton St Cyres and Crediton to the west of the site. Within their marketing strategy, the applicant has identified a number of attractions within the area including public footpaths, the national cycle network, Exeter Quayside, the Rail Ale Trail (Tarka Line), local pubs and further afield; Haldon Forest and Dartmoor National Park. The supporting letter from Hoseasons confirms that the high end lodge sector is a buoyant area of the market which has seen particular interest from young and affluent audiences. They are particularly supportive of the proposed development as a specialist and high end offering which they consider is likely to achieve high levels of occupancy.

Although it is recognised that the site is within a countryside location, the site is considered to be well located in terms of its accessibility with direct access from an A road and good accessibility via public transport services. Both development plan policy and guidance in the National Planning Policy Framework supports rural employment development and recognises that new development may not always be located in existing settlements. As an expansion of the existing commercial operations at the site it is considered that the proposed development of the existing brewery facilities with associated tourism use is supportable in principle subject to consideration of the issues as set out below.

## 2. Highway, movement and parking issues

The development proposes to utilise the existing access to the site with a second access provided from the private lane to serve the visitors to the holiday lodges and bar. The Highway Authority have confirmed that they have no objection to the proposed development subject to the provision of a footway between the site and the bus stops. The applicant has agreed to provide the footway links and this can be secured via a planning condition and the necessary agreements with the County Council in terms of any works that are undertaken on the highway. The provision of the footway link will offer a more attractive and safer option for visitors to the site to utilise the bus service reflecting the guidance of the NPPF (paragraph 89) to improve the sustainability of rural employment sites by improving links to public transport. The footway link will also provide wider public benefits in terms of improving the pedestrian route from the layby to the village which is particularly valuable given the recent increase in use of the layby for parking by villagers as highlighted within the letters of representation.

Policy DM8 requires that developments must provide an appropriate level of parking, taking into account the accessibility of the site including the availability of public transport and the type, mix and use of development. Within the site the existing 12 spaces in front of the building will be retained for staff and disabled parking, albeit reconfigured. 48 additional

parking spaces are proposed; 13 to the south of the proposed brewery extension, 16 adjacent to the new access road and 19 dedicated to the holiday lodges making a total provision of 60 spaces within the site. The standards set by policy DM8 are; for A3 use 1 per 5.5sqm of eating area, 1 space per bedroom of tourist accommodation and 1 per 30 for B1/ B2 business use this would amount to an additional 59 spaces being required to accommodate the proposed development.

However, the Highway Authority consider that the policy standard for holiday accommodation is particularly high considering the nature of accommodation and would accept 1 space per holiday let. On this basis the additional spaces generated by the proposed development would be 39 which the proposal exceeds. In addition the applicant has advised that the yard area can be used to provide overflow parking if necessary and as taxi pick up/ drop off point.

In summary having regard to the level of additional parking proposed and the improved accessibility to the public transport links and the lack of objection from the Highway Authority it is considered that the level of parking as proposed is sufficient to accommodate the increased scope of development at the site and it is not considered that the proposed development would result in a significant adverse impact on the local highway network.

### 3. Impact on character and appearance of the area

Policy COR2 seeks to ensure that development will sustain the distinctive quality, character and diversity of Mid Devon's environmental assets. Policy DM2 requires that designs of new development must be of high quality demonstrating a clear understanding of the characteristics of the site and its wider context.

As described above, the site is generally steeply sloping down towards the A377. The topography rises to the highest on the western boundary allowing wide ranging views to the surrounding countryside, a public right of way runs along the ridge to the south. The site sits primarily within the "Wooded ridges and hilltops" landscape character type, although the north eastern corner falls into the "Lower rolling farmed and settled valley slopes". The special qualities of these landscape character types include; areas of deciduous woodland, isolated and tranquil character created through lack of buildings, distinctive hedge patterns, exceptional views of surrounding countryside, distant views with little or no development on top of hill, well wooded and pastoral character and the presence of mature oaks and other hardwood trees in hedgerows.

A Landscape and Visual Appraisal has been submitted with the application which recognises that the north facing wooded slopes of the site are a dominant feature of the landscape which rise up from the low lying land to the north associated with the River Creedy. There are high degrees of variation in terms of visual containment, the lower areas of the site being screened and sheltered and the upper fields beyond the woodland, exposed with far reaching views. In terms of views from the south, the landform and tree screening restrict views and are generally limited to vehicles passing the site and within the adjacent layby. It is likely that there will be views to the site from the north but these will generally be long distance and by virtue of the scale of the proposed lodge buildings and the proposed brewery extension, it is considered that the effects on these views will be negligible. Immediate inward views from the east, including from the public footpaths, will change as a result of the proposed limited tree removal to accommodate the proposed holiday lodges. However overall it is considered that the site it will remain well screened with negligible impact upon longer range views, and therefore it is considered that the overall impact on the character of the local landscape will be neutral.

The proposed extensions to the existing brewery building have been designed to reflect the character and appearance of the existing structure. Although it is set above the level of the highway the existing building is low profile and reasonably well screened such that it sits comfortably within its context. The proposed alterations will extend the linear form of the building, however it is not considered that the extensions would result in a scale of building that would be unacceptable or unduly dominant. In terms of their visual impact the design of the extensions are considered to be appropriate and are not considered to result in harm to character or appearance of the area.

The holiday lodges are proposed to be sited on the sloping agricultural field to the south of the brewery building. The field is bound by a strip of woodland planting on the eastern boundary adjacent to the A377 and layby. To the west and south the site is also relatively well enclosed by existing woodland planting although some of the younger trees are proposed to be removed to accommodate the development. The ground works and retaining structures required to accommodate the cabins, as well as the proposed cabins and associated infrastructure, will change the currently undeveloped character of this part of the site. The proposal has sought to minimise the level of hardscape with a landscaped corridor in between the rows of cabins surrounded by species rich grasses/ wildflower mix planting and areas of new beech hedging to soften the impact of the cabin structures. Retaining features are proposed to be constructed utilising natural stone gabions. The proposed development seeks to retain existing trees and hedgerows as far as possible, with additional planting proposed to enhance the visual containment of the site. Details of the external finish and appearance of the cabins will be required by condition to ensure the detailing is in keeping with the rural character of the site.

Having regard to the design and scale of the development as proposed, the level of existing tree screening and proposed enhanced planting scheme it is considered that, whilst the proposed development will change the character of the site, the scheme would not result in any significant adverse impacts to the character and appearance of the area and the scale of development proposed is considered to be acceptable in this location reflecting the requirements of policies DM2, DM20 and DM24 of the Local Plan part 3 (Development Management Policies) and COR2 and COR18 of the Mid Devon Core Strategy.

#### 4. Impact on the amenity of local residents

Policy DM2 of the Mid Devon Local Plan part 3 (Development Management Policies) requires high quality design that does not have an adverse effect on the privacy and amenity of neighbouring properties. Policy DM7 seeks to prevent development which would have an unacceptable negative impact on health, the natural environment and general amenity as a result of noise, odour, light and other forms of pollution. Paragraph 127 of the NPPF requires that development should always seek a good standard of amenity for existing and future occupants.

The site is neighboured to the north by a residential dwelling known as The Old Dower House/ Pulleton and is separated from the site by approximately 105m. To the north east, Lower Marsh is located the other side of the A377 highway and approximately 110m distant. Other residential properties are located within Half Moon Village further north of the site.

As stated above in the planning history section of this report an application for the installation of a balcony and access ramp to be used in conjunction with the existing mezzanine bar/function facilities at the site was refused and dismissed at appeal. The reason for refusal is set out below:

1. *The Local Planning Authority considers that the application scheme for the proposed balcony and access ramp would be likely to result in an intensification and expansion of the use of the function room, such that it is likely to go beyond the permitted ancillary use and result in harm to the general amenities of the area contrary to policy DM2 of the Local Plan part 3 (Development Management Policies).*

In dismissing the subsequent appeal the Inspector considered that the balcony would be open sided and offer clear line of sight towards the garden of the neighbouring property albeit at some distance, the overlooking would result in an unacceptable loss of privacy. In terms of noise he recognised that the balcony could be used until late into the evening when the amount of background traffic noise would be less and in the absence of a noise assessment it was concluded that it had not been adequately demonstrated that there would not be an unacceptable amount of noise that would affect the occupiers of neighbouring properties. Although some benefit to the business was recognised, in dismissing the appeal the inspector concluded that the benefits would not be outweighed by the harm that was identified in relation to the impact on neighbouring properties.

It is recognised that the proposed development of the site is likely to have some impact on the amenity of neighbouring occupiers, particularly in terms of the scope of development at the northern end of the existing brewery building to provide the enhanced customer bar/restaurant facilities. The proposed balcony is larger than previously proposed with a stepped access from the higher level land at the rear of the site. In support of this application the applicants have submitted a noise assessment to address the concerns of the Council's Public Health Team and as raised within the previous appeal decision.

The noise assessment considers the impact of voices arising from the terrace would be "negligible" to "slight adverse". The Council's Public Health Team has considered the findings of the noise assessment and recommends the provision of a 2m high balustrade screen as a requirement to secure a degree of sound mitigation against the higher sound levels from groups of people with raised voices which could arise from the social activities taking place at the site given the improvement to the facilities proposed. The provision of the 2m high solid screen will also act to provide a visual screen and therefore limit views from the balcony area to the neighbouring property to the north. Further details of the proposed screening will be required by condition. Whilst views will still be achievable from the steps down to the site, it is not likely that people will spend a prolonged period of time here such that the likely level of overlooking would result in unacceptable harm to neighbouring occupiers. The likely level of overlooking from the play area adjacent to the balcony is also not considered to be significant given the screening provided at this level by the boundary fencing.

The applicant's intend that the bar/restaurant would be open on Thursday and Fridays between 18:00 and 23:00, Saturdays 10:00 till 22:00 and Sundays 11:00 till 15:00. The brewery operations would be open between 08:00 and 18:00 on weekdays and 10:00 till 16:00 on Saturdays.

Although the proposed bar/restaurant opening hours will extend the number of evenings where there is likely to be activity at the, it is not considered that the proposed opening hours are unreasonable or likely to result in unacceptable harm to the amenities of neighbouring occupiers. However it is considered reasonable and necessary to limit the opening hours to the times as set out by the applicant in order to prevent unrestricted expansion of the activity beyond reasonable hours to protect the amenity of neighbouring occupiers, which could arise if it was left to the Licensing regime.

Having regard to the proposed mitigation to be secured by condition it is considered, on balance, that the proposed expanded operations of the site are not likely to result in

significant adverse impact to the amenity of neighbouring occupiers contrary to policies DM2 and DM7 of the Local Plan part 3 (Development Management Policies).

## 5. Ecology and protected sites

Ecology: The applicants have submitted Ecological Appraisals and further survey work including a Bat Activity Report and Great Crested Newt Survey in support of the application. The site survey found a number of habitat features across the site including hedgerows, mature trees, semi improved grassland and woodland areas. The works to accommodate development would include loss of some of these habitats including sections of hedgerow to facilitate access and removal of some young trees at the edge of the field area to accommodate the proposed holiday units.

The initial ecological survey (March 2018) required that further survey work was required in relation to bats and great crested newts. The Bat Activity Report considered that the habitat at the site was of moderate value suitable habitat. The activity surveys identified a low level of bat activity with low- moderate diversity of bat species. The most common species identified on site, Soprano Pipistrelle, are slightly light adverse and therefore mitigation is required in terms of a smart lighting strategy to minimise the impact of additional artificial lighting across the site. The proposal also suggests enhancements to habitats across the site including 4 bat boxes to be located on trees across the site, sympathetic landscaping proposals and creation of a pond. The Great Crested Newt survey in relation to the two small water bodies (one within the site boundary) recorded negative results and on this basis no further survey work or mitigation for this species is required.

A map of proposed mitigation and/or enhancement measures is set out at section 4.2 of the Ecological Appraisal (March 2017) and includes additional 3m of hedgerow planting for each 1m lost, provision of 2 hazel trees per tree lost, provision of bat and bird boxes, additional pond and buffers to woodland areas. On the basis that the proposed development is carried out in accordance with the mitigation measures as set out within the Ecological Appraisal and the lighting strategy as set out within the Bat Activity Report it is considered that the proposed development is not likely to result in any significant adverse impacts to the biodiversity interest at the site. Furthermore, the proposed enhancement measures provide opportunity to enhance the habitats at the site for protected species in accordance with guidance of the NPPF.

Protected sites: The site is located within the 'zone of influence' for the Exe Estuary Special Protection Area (SPA). SPA's are sites of European Importance created under the Conservation of Habitats and Species Regulations and also known as Natura 2000 sites. Policy DM30 of the Local Plan part 3 (Development Management Policies) requires that where development proposals would lead to an individual or cumulative adverse impact on Natura 2000 sites planning permission will be refused unless the proposal complies with criteria b and c of the policy (copied below), and the fundamental integrity of the features of the Natura 2000 site would not be affected.

- b) the development could not be located in an alternative, less harmful location; and*
- c) appropriate mitigation measures have been put in place.*

The comments of Natural England, as set out above, clarify that it is anticipated that new development in the zone of influence is 'likely to have significant effect' on the interest features of the SAC/SPA through increased recreational pressure. Therefore it is required that mitigation is required in accordance with the SEDEMS (South East Devon European

Site Mitigation Strategy) and joint approach of Exeter City Council, Teignbridge District Council and East Devon District Council. Although MDDC are not party to this agreement, given the very small part of the district which falls within the zone of influence, in order to discharge the Council's responsibilities under the Habitat Regulations it is necessary to ensure appropriate mitigation is secured. The level of financial contribution received in accordance with the SEDEMS equates to £447 per unit (adjusted from the standard rate of a dwelling unit to reflect the likely occupancy rate of tourism units). The applicant has confirmed their agreement to the financial contribution (Total: £4917) and this can be secured via legal agreement. On this basis it is considered that the proposal is acceptable in accordance with policy DM30 and paragraph 15 of the NPPF.

#### 6. Other- arboriculture, drainage

**Arboriculture:** The arboricultural report submitted with the application found there were 18 trees, 3 hedgerows and 4 areas of woodland on the site. The 18 standalone trees were all located within hedgerows or forming part of the field boundary and will be retained. The chalets will mainly be located within the centre of the field away from any root protection areas. Some crown lifting will be carried out to facilitate access improvements. The arboricultural survey considers that a detailed method statement should be required as condition of the application to include details of protective measures for trees (protective fencing and construction exclusion zones) and details of a new tree planting scheme. The details of tree planting are set out on drawings numbers 160907 L04 01 Softworks 1 and 2 which demonstrate that the scope of development will include planting 89 new trees- Maple, Hornbeam, Hawthorne and Common Beech- across the site, as such it is not considered necessary to require further details of this. However a condition is imposed to require further details in respect of a method statement detailing protective measures in relation to the trees during the construction process.

**Surface water drainage:** The proposed development increases the scope of hardscape at the site. It is proposed to provide treatment and storage of surface water within swales and a new detention basin on the flat area adjacent to the north eastern boundary of the site (adjacent to the layby). It is proposed that the surface water will continue to discharge to the existing culvert approximately 30m north of the site entrance, and the Highway Authority as owners of the site have confirmed that this is acceptable in principle. Devon County Council as Lead Local Flood Authority have confirmed they have no objections to the proposed drainage arrangements following submission of the revised drainage strategy and therefore, subject to details to be secured by condition, it is not considered that the scheme raises any issues in terms of surface water management issues.

**Foul drainage:** Following the original concerns of the Environment Agency the applicants have submitted a revised drainage strategy which proposes to manage foul drainage via a new package treatment plant which is proposed to be located within the eastern part of the site. It is proposed to discharge effluent to the culverted watercourse in the layby to the north of the site entrance with separate outfall pipes provided for foul and surface water from the site. A permit will be required from the Environment Agency who have confirmed that have no objections to the proposed development in light of the revised drainage strategy. Further details of the foul drainage treatment plant will be required by condition.

#### 7. Summary- planning balance

The proposed development would facilitate an expansion of the existing brewing based

business at the site at the site including expanded bar/ restaurant facilities and a new tourist offering. The economic benefits in terms of diversification and increasing resilience are recognised and the scale of the proposed business expansion is considered to be acceptable in accordance with policy DM20 despite the countryside location of the site. As an expansion of the existing brewery operations the proposed tourist offering is considered to be justified in this location in accordance with policy DM24.

The assessment of the application does not raise any concerns in terms of highway safety or capacity issues. The delivery of the footway link between the site entrance and the bus stop will improve sustainable travel options to the site and also deliver a benefit for other members of the community in terms of providing a safer walking route between the residential properties in Half Moon and the layby which is used for parking by local residents. The level of parking provided within the site is considered to be acceptable to accommodate the likely increase in vehicles at the site.

Whilst the proposed development will change the character of the site, it is not considered that the scheme would result in any significant adverse impacts to the character and appearance of the area and it is considered that the development is proposed to be managed in a sensitive manner in terms of the visual, landscape and ecological impacts of the scheme given the site context. Appropriate mitigation is secured to mitigate the impact of the development on the Exe Estuary SPA in accordance with policy DM30.

It is recognised that the continued and expanded operations of the site may have some impact on the amenity of neighbouring occupiers. However given the proposed mitigation, which seeks to address the concerns previously raised in relation to overlooking and noise arising from the provision of a balcony for use in association with the proposed bar / restaurant facility, and having regard to the lack of objection from the Council's Public Health Team it is considered, on balance, that the impacts of the scheme are unlikely to result in significant adverse impacts.

In summary, the scope of development proposed at the site is considered to be an acceptable expansion of the existing commercial operations reflecting the policy tests of COR18, DM20 and DM24. The scheme has sought to address the concerns in terms of the impact on the amenity of neighbouring occupiers and whilst it is recognised that the scope of development may result in some harm to the amenity of neighbouring occupiers, it is considered, on balance, that the level of harm is not likely to be significant such that it would warrant refusal particularly when balanced in terms of the economic and social benefits associated with the scheme.

## **CONDITIONS**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice.
3. Prior to the commencement of any part of the development hereby approved, there shall be submitted to and approved in writing details of the proposed hedgerow and tree protection measures including an arboricultural method statement and plans showing locations and details of protective measures which shall be informed by the findings of the Arboricultural Survey report reference ASR\_Hanlon's Brewery\_EX5 5AD\_ March

2017. The development shall at all times be carried out in accordance with the approved details.

4. 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. The design of this permanent surface water drainage management system will be in accordance with the principles of sustainable drainage systems, and those set out in the Hanlon's Brewery, Newton St Cyres, Foul and Surface Water Drainage Strategies, February 2018 Rev C dated August 2018.
5. No part of the development hereby permitted shall be commenced until the detailed design of the proposed surface water drainage management system which will serve the development site for the full period of its construction has been submitted to, and approved in writing by, the Local Planning Authority. This temporary surface water drainage management system must satisfactorily address both the rates and volumes, and quality, of the surface water runoff from the construction site.
6. No part of the development hereby permitted shall be commenced until details of the proposed connection to, and repair of, the existing Highway drainage culvert has been submitted to and agreed in writing by the Local Planning Authority. The works shall be completed in accordance with the approved details prior to commencement of the use of the development.
7. Prior to its installation on site, details of the proposed foul drainage system in the location as shown in Figure 8 of the Foul and Surface Water Drainage Strategy Rev C (August 2018) shall be submitted to and approved in writing by the Local Planning Authority. The foul drainage system shall be implemented in accordance with the approved details prior to first use of any of the proposed holiday chalets or the extended bar/restaurant facilities.
8. Notwithstanding the detail as shown on the approved plans the East and North elevations of the proposed terrace must be contained by a solid balustrade and an absorbent acoustic cladding applied to the north gable elevation of the brewery building. The proposed solid balustrade must be at least 2m high above the floor level of the balcony. Details of the balustrade and absorbent acoustic cladding are to be submitted to and approved in writing by the Local Planning Authority prior to its installation. The balustrade and acoustic cladding shall be provided in accordance with the approved details prior to first use of the balcony/terrace area and retained as such in perpetuity.
9. No part of the development hereby approved shall be brought into its intended use until the off-site highway works for the provision of footway connections to the bus stops has been constructed and made available for use in accordance with details that shall previously be submitted and approved in writing by the Local Planning Authority.
10. No part of the development hereby approved shall be brought into its intended use until the associated parking facilities, commercial vehicle loading/unloading area and associated drainage facilities have been provided and maintained in accordance with details, including a phasing plan for timing of these works, that shall have been submitted to, and approved in writing by, the Local Planning Authority and retained for that purpose at all times.

11. i. The holiday lodges hereby approved shall be occupied for holiday purposes only.
  - ii. The lodges shall not be occupied as a person's sole or main place of residence
  - iii. The operators shall maintain an up-to-date register of the names of all occupiers of individual lodges on the site, their arrival and departure dates and their main home addresses, and shall make this information available at all reasonable times to the Local Planning Authority
12. Prior to their installation on site, details of the external finish of the proposed holiday lodges shall be submitted to and approved in writing by the Local Planning Authority. The lodges shall be installed and retained in accordance with the approved details.
13. Prior to installation on site, details of the acoustic barrier to be provided at the northern and eastern boundaries of the site, as shown on drawing number 160907 L0202 General Arrangement, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with these approved details and retained as such in perpetuity.
14. Prior to the use of the development hereby approved, an external lighting strategy for the site shall be submitted to and approved in writing by the Local Planning Authority. This should be informed by the suggested smart lighting strategy as set out within the Bat Activity Report BASR\_ HanlonsBrewery\_December 2018. The lighting shall be installed in accordance with the approved scheme and retained as such in perpetuity unless otherwise agreed in writing by the Local Planning Authority.
15. The proposed landscaping works and planting as shown on drawing numbers 160907 L0401 Softworks 1 and 160907 L0401 Softworks 2 shall be carried out within a period of six months of the first use of the relevant part of the development hereby approved. Any trees or plants which, within a period of five years from the completion of the development, die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species.
16. The development shall be carried out at all times in accordance with the mitigation and enhancement measures set out within the Ecological Appraisal by Ecological Surveys Ltd report reference EcA\_Hanlons Brewery\_March\_2017 and the Bat Activity Report report reference BASR\_ HanlonsBrewery\_December 2018, both documents received by the Local Planning Authority on 9<sup>th</sup> April 2018.
17. The use of the bar and restaurant facilities shall not be open to customers outside the following times: Thursdays and Fridays between 18:00 hrs and 23:00 hrs, Saturdays between 10:00hrs and 22:00hrs and Sundays between 11:00hrs and 15:00hrs.

#### **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 the development makes a positive contribution to the character and appearance of the area in accordance with policy COR2 of the Mid Devon Core Strategy and DM2 of the Local Plan part 3 (Development Management Policies).
4. To ensure that surface water runoff from the development is managed in accordance with the principles of sustainable drainage systems and in accordance with policy DM2 of the Local Plan part 3 (Development Management Policies).

5. Reason: To ensure that surface water runoff from the construction site is appropriately managed so as to not increase the flood risk, or pose water quality issues, to the surrounding area.
6. To comply with the Flood and Water Management Act (2010) and to ensure that the drainage from the site is appropriately managed in accordance with policies DM2 and COR11.
7. To ensure that the foul drainage from the site is managed appropriately in the interests of the general amenity of the area. m
8. To protect the amenity of neighbouring residents in accordance with policies DM2 and DM7 of the Local Plan part 3 (Development Management Policies).
9. To minimise the impact of the development on the highway network in accordance with paragraph 108 of National Planning Policy Framework
10. To ensure that adequate facilities are available for the traffic attracted to the site
11. The site is outside defined settlement limits in the open countryside, where permanent dwellings with unrestricted occupation would be contrary to adopted planning policy COR18 of the Mid Devon Core Strategy and policy DM24 of the Local Plan part 3 (Development Management Policies).
12. In the interests of the amenity of the area and to ensure that the installations are appropriate to the character and appearance of the area in accordance with policies COR2 and DM2.
13. In the interests of the amenity of the area and to ensure that the installations are appropriate to the character and appearance of the area in accordance with policies COR2 and DM2.
14. To ensure the external lighting provided at the site does not result in an unacceptable impact on the character and appearance of the rural area and to protect biodiversity interests at the site.
15. To ensure that the proposed development makes a positive contribution to the character and appearance of the area in accordance with policies DM2 and COR2.
16. To protect the ecological interests at the site in accordance with policy DM2 and the NPPF.
17. To ensure that the operations of the extended bar and restaurant are appropriately controlled to prevent an unacceptable impact to the amenity of neighbouring occupiers.

### **REASON FOR GRANT OF CONSENT**

The site is located in the countryside where policy COR18 seeks to protect the character and appearance of the countryside while promoting sustainable diversification of the rural economy. The scope of development, as an expansion of the existing brewery business at the site, is considered to be acceptable in this rural location having regard to the policy tests established by policy DM20 and DM24 which support the expansion of rural employment and tourism/ leisure uses that are of an appropriate scale and do not adversely impact on the character or appearance of the rural area. The assessment of the application does not raise any concerns in terms of highway safety or capacity issues and the delivery of the footway link between the site entrance and the bus stop will improve sustainable travel options to the site and also deliver a benefit for other members of the community. The impacts of the development in terms of visual amenity, ecology and drainage are considered to be acceptable with further details required by condition as necessary.

The scheme has sought to address the concerns in terms of the impact on the amenity of neighbouring occupiers and whilst it is recognised that the scope of development may result in some impact to the amenity of neighbouring occupiers, it is considered, on balance, that the level of harm is not likely to be significant or unacceptable such that it would warrant refusal particularly when balanced in terms of the economic and social benefits associated with the scheme. On this basis it is considered that the proposed development is acceptable

in accordance with policies COR2, COR4, COR9, COR11 and COR18 of the Mid Devon Core Strategy, DM1, DM2, DM7, DM8, DM20, DM24 and DM30 of the Local Plan part 3 (Development Management Policies) and government advice set out in the National Planning Policy Framework.

## **INFORMATIVES**

1. Any non-mains foul drainage system associated with this development will require an Environmental Permit from the Environment Agency under the Environmental Permitting Regulations 2010, unless it satisfies the General Binding Rules for small sewage discharges in England. The General Binding Rules can be found online at <https://www.gov.uk/government/publications/small-sewage-discharges-in-englandgeneral-binding-rules>. If the proposed foul discharge will not satisfy the General Binding Rules the applicant is advised to contact our National Permitting Service on 03708 506 506 for further advice and to discuss the issues likely to be raised. You should be aware that the permit may not be granted, particularly if the discharge is located within an area served by a mains sewer. Additional 'Environmental Permitting Guidance' can be accessed online at <https://www.gov.uk/permits-you-need-for-septic-tanks>.

2. Using a SUDS system is an acceptable way of reducing the likelihood of pollutants entering the watercourse. We refer the applicant to the advice contained within our Pollution Prevention Guidelines (PPGs), in particular PPG5 – Works and maintenance in or near water, PPG6 – Working at construction and demolition sites and PPG13 – Vehicle washing and cleaning. These can be viewed via the following link: <https://www.gov.uk/government/collections/pollution-prevention-guidance-ppg>  
We also advise that the use or disposal of any waste should comply with the relevant waste guidance and regulations.

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

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## Major Applications with no Decision

Members are asked to note that some major applications will be dealt with under the delegation scheme. Members are also requested to direct any questions about these applications to the relevant case officer. It was resolved at the meeting of Planning Committee on 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	8	22/11/2018	18/00742/MOUT	Outline for the erection of 8 industrial units, access road, with parking and recycling areas	Land at NGR 284328 100184 Commonmarsh Lane Lords Meadow Industrial Estate Crediton Devon	Mr Simon Trafford	DEL	
2	10	08/11/2018	18/01183/MFUL	Erection of an agricultural building for free range egg laying, clean and dirty water handling facilities, control room/packing area, 2 feed bins and creation of new access	Land at NGR 288920 99864 (West Of Shute Cross) Shute Shobrooke Devon	Mr Simon Trafford	DEL	
	10	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	
	10	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	
5	10	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	COMM	COMM
6	13	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
7	14	09/10/2018	18/01091/MOUT	Outline for the erection of up 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	
8	16	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

<i>Item</i> <i>No.</i>	<i>Weeks</i>	<i>TARGET DATE</i>	<i>REFVAL</i>	<i>PROPOSAL</i>	<i>LOCATION</i>	<i>NAME</i>	<i>Expected Decision Level</i>	
							<i>Delegated</i>	<i>Committee</i>
9	16	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	
10	18	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	
11	20	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	Mr Simon Trafford	COMM	COMM
12	24	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
13	27	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	27	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	29	27/06/2018	18/00504/MOUT	Outline for the erection of 3 dwellings	Land at NGR 307538 116626 (North of Town Farm) Burlescombe Devon	Mr Adrian Devereaux	COMM	COMM
16	29	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	34	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

<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>
18	38	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
19	41	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
20	52	17/01/2018	17/01660/MOUT	Outline for the erection of 10 dwellings	Land at NGR 287219 106314 Barnhill Close Cheriton Fitzpaine Devon	Mr Simon Trafford	COMM	COMM
21	58	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
22	61	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
23	63	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
24	65	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
25	69	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>
26	84	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
27	100	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
28	102	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 20th September 2018 to 18th October 2018

Application No	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
17/00854/OUT	Outline for the erection of a dwelling	Land at NGR 306965 114496 (2 Appledore Court) Burlescombe Devon	Refuse permission	Committee Decision	Refuse permission	Written Representations	Appeal Dismissed
17/01411/FULL	Retention of slurry lagoon	Land at NGR 276429 99746 (Adjacent to Mardles Gate) Colebrooke Devon	Grant permission subject to conditions.	Committee Decision	Refuse permission	Written Representations	Withdrawn

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## PLANNING COMMITTEE

DATE: 31 OCTOBER 2018

### Tree Preservation Order: 18/00004/TPO

Grid Ref: 301700 : 106580

Location: 24 Hawthorn Close  
Cullompton  
Devon  
EX15 1SL

Proposal: Tree Preservation Order for 1 Oak tree



## **TREE PRESERVATION ORDER: 18/00004/TPO**

### **REPORT OF THE HEAD OF PLANNING AND REGENERATION**

#### **Reason for Report:**

To address objections and support for the Tree Preservation Order

#### **RECOMMENDATION**

That the Tree Preservation Order 18/00004/TPO is confirmed.

#### **Relationship to Corporate Plan:**

The proposal impacts upon the Corporate aim of 'Protecting the natural environment'

#### **Financial Implications:**

None

#### **Legal Implications:**

Tree Preservation Orders are made under the Town and Country Planning Act 1990 as amended by the Town and Country Planning (Tree Preservation) (England) Regulations 2012. Local Planning Authorities can make a Tree Preservation Order if it appears to them to be expedient in the interests of amenity to make provision for the preservation of trees or woodland in their area.

#### **Risk Assessment:**

None

#### **Consultation carried out with:**

1. The landowners have been notified of the imposition of the Tree Preservation Order and provided with the opportunity to object to its confirmation.

#### **PROPOSAL:**

Tree Preservation Order for 1 Oak tree

#### **RELEVANT SITE HISTORY/DESCRIPTION:**

**92/00710/ARM** - PERMIT date 9th October 1992

Reserved matters for the erection of sixty two, two storey detached and terraced dwellings together with construction of vehicular access

#### **AMENITY EVALUATION:**

The wider landscape amenity value is limited for the tree although it can be seen from various locations. The tree predates the development and is likely to have been a consideration at the time of Planning Consent.

It is situated on what is likely to have been an old hedgerow and in recent history a neighbouring Oak tree was felled as it was dead. This now the only remaining Oak tree in this immediate area.

When looking at aerial photographs the tree is situated at the bottom of several gardens, the ownership of the tree is unknown.

The amenity value of the tree was scored at 14.5. A score of 15 means that a tree merits consideration for protection with a Tree Preservation Order. MDDC Tree Officer was contacted by the appointed arborist to remove the tree and confirmed that there was no TPO, although the amenity score was 14.5 following a site visit the tree was still worthy of consideration for TPO, but the arborist believed that all of the residents wanted the tree felled. When the tree was scheduled to be felled the police were called and MDDC received many calls and emails requesting the tree be protected, as a result a Tree Preservation Order was made.

## **REPRESENTATIONS:**

Letters of support and objection to the TPO have been received, the points raised have been summarised below:

3 letters of support (1 of them from 4 people)  
4 letters of objection

### Support comments

- 1) The tree influenced the choice of plot when purchasing the house.
- 2) Essential wildlife habitat, increases biodiversity, increases visual amenity.
- 3) The tree is an essential part of the layout and character of the estate contributing to its popularity.

### Objection comments

- 1) No mention of an Oak tree on the deeds.
- 2) Concerns regarding the root spread of the tree.
- 3) Damage to the property.
- 4) Causing the garden to flood-due to roots obstructing drainage.
- 5) Lifting fence panels and paving slabs.
- 6) Large branches fall onto garden and shed – health and safety issue.
- 7) Concern of whole tree failure.
- 8) Residents were prepared to work together to pay for tree maintenance/removal.
- 9) If the TPO is confirmed the council should maintain the tree.
- 10) The Oak tree is not suitable for a residential area.
- 11) The tree has grown, it was much smaller in 1992 when the houses were built.
- 12) No maintenance.
- 13) Unsuitable size for its location.
- 14) Only a few residents are prepared to pay for maintenance.
- 15) If the TPO is confirmed the council should pay for crown reduction work.
- 16) It is not known who is responsible for the tree.
- 17) Higher than the houses and overpowering them.
- 18) Want to know who will be responsible for the tree in the future.
- 19) Increasing storms will increase the risk of failure.
- 20) The neighbourhood included all those affected by sending a letter and the majority of residents were in favour of felling the tree.
- 21) Low amenity value

Two letters of support were sent anonymously, the comments within these letters raise some additional comments regarding the value of the tree within the community. These comments included the following:

- 1) It is proven that people are more likely to buy houses when there are trees and green spaces, and also that houses are more valuable in 'leafy' areas. This part of Cullompton still feels connected with the countryside of Mid Devon so it is fair to assume that for some people the presence of the tree is seen as a very positive

addition to the neighbourhood.

2)The presence of the tree certainly adds to the wildlife and biodiversity of the area. The presence of nesting birds caused the police to be alerted when the tree was due to be removed.

3)Although MDDC Tree Officer could find no evidence in a Planning search it is likely that the tree had been retained intentionally, the design and layout of the development close to the tree shows from aerial photographs that the tree is almost a central point to the rear back gardens of several properties.

### **Tree Officer's considerations**

The MDDC Tree officer considers that the tree provides screening between properties and softens the development. It is a mature Oak tree but not of very large size, possibly pruned in the past and is not in direct contact with any properties. The tree appears to be in good health although a detailed inspection has not been completed. There was no obvious sign of decay, disease or structural weakness. The crown seems healthy and vitality is normal.

The tree does have amenity value and can be seen from various locations, albeit a glimpse, from several viewpoints within the local area.

The MDDC Tree Officer has the following comments in response to the objections to the making of a Tree Preservation Order that have been received. The numbering of the following comments relate to the numbering of the objections in the report above.

- 1) It is unlikely that an Oak tree would be mentioned on deeds and documents relating to the sale of property. Trees ownership is usually determined by whether it falls within a boundary line.
- 2) The root spread of the tree is likely to be considerable. It is possible that roots were damaged at the time of the development but the tree is showing no signs of ill health so by now will have established new roots. In this location the roots will be opportunistic and grow where they are able.
- 3) The tree may shed debris onto shed roofs and fences may require repairing when in close proximity to the growing tree. There is no reason to suggest there is a risk of tree failure.
- 4) The tree is unlikely to cause the garden to flood as there is very rarely drainage for water runoff installed beneath garden soil. There may be other reasons for flooding and there may be some leaf clearance maintenance work required.
- 5) At the time of MDDC Tree Officers site visit, it was possible to see that the fencing required repair but this may have been the case whether the tree was present or not. Paving slabs will be lifted by the tree and if it is deemed necessary to confirm the Tree Preservation Order, the patio slabs could be laid in way to reduce the lifting.
- 6) There was no signs that large branches were going to fail at the time of the site visit but if the branches falling from the tree onto the shed roof are mainly dead all deadwood can be removed without the need for an application if deemed necessary, although there is no clear owner of the tree identified.
- 7) As stated there were no obvious reasons to suggest that the tree was likely to fail.
- 8) The residents may still need to work together to maintain the tree with or without the Tree Preservation Order. The difficulty is that it has become apparent that not all the residents are in support of removing the tree.
- 9) If the TPO is confirmed the council will not be responsible for the tree nor contribute to the maintenance of the tree

- 10) In Mid Devon the majority of our trees now in developed areas are Oak trees, typically hedgerow Oaks, such as this, which predate the developments. They contribute significantly to our Green Infrastructure; however they are more successfully retained in the longer run when they are located on Green Open Space within the Planning Process.
- 11) Trees will continue to grow, particularly following pruning. This tree has the potential to get larger still.
- 12) Ideally maintenance of trees is kept to a minimum, crown reduction works may be considered to maintain a particular size of canopy or to address a defect. General removal of deadwood may also be regarded as maintenance. However it may be that no maintenance of the tree has been required until now, when residents feel the tree has got too big.
- 13) While some residents may feel that the tree is an unsuitable size for the location others may not. This typically relates to who is living closest to the tree. Currently MDDC Tree Officer does not feel that the tree is overbearing to any residents but this is a subjective viewpoint.
- 14) It is likely that only the residents who wanted to remove the tree would be prepared to pay for it.
- 15) The council will not pay for any maintenance works
- 16) The fact that the tree has no definite owner complicates the situation significantly. At this point MDDC Tree Officer does not know that there is any way of resolving this issue.
- 17) The tree may be higher than the houses, this would be typical for the majority of mature trees.
- 18) Future responsibilities for the tree may remain unclear.
- 19) There does seem to be a pattern of more extreme winds and storms, possibly due to climate change. If the tree is in good health it should be able to resist storms.
- 20) While it is believed that everything was done to communicate the felling of the tree within the community, there were strong objections which came to light when the tree was due to be removed.
- 21) It is agreed the amenity value of the tree is not significant in the wider landscape but it does have value and can be seen from several vantage points. The retention of the tree was considered desirable during the planning process.

#### **SUMMARY:**

This mature, healthy Oak tree has no clear owner and therefore the responsibility for it lies with no one in particular.

The residents discussed the matter and worked together to arrange the felling of the tree. It then became apparent that there were several objections to the tree being removed.

While the tree does not have significant amenity value, it was considered worthy of retention and incorporated into the design and layout of the development where it now stands. It fell slightly short of the amenity rating required for making a TPO but this is a guide only and having taken into account additional values such as biodiversity, screening and softening of the development, MDDC Tree Officer decided to make the Tree Preservation Order as the tree surgeon was due to return to site to fell the tree and it was requested that MDDC placed a TPO on the tree so the matter could be fully discussed.

The Tree Officer has reviewed the amenity value of the tree and has taken into account its biodiversity, screening and development softening values. The Tree Officer has concluded that the Tree Preservation Order is warranted in this case and should be confirmed.

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.

## **PLANNING COMMITTEE**

**DATE: 31/10/2018**

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

### **PLANNING PERFORMANCE AGAINST TARGETS QUARTER ONE 1ST APRIL – 30<sup>TH</sup> JUNE 18/19 & QUARTER TWO 1ST JULY – 30<sup>TH</sup> SEPTEMBER 2018**

**RECOMMENDATION:** For information and discussion.

#### **REASON FOR REPORT:**

To provide the Committee with information on the performance of aspects of the planning function of the Council for Quarters 1&2 of 18/19

#### **MATTERS FOR CONSIDERATION:**

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

#### **RELATIONSHIP TO CORPORATE PLAN:**

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

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

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

The speed measure is twofold: firstly the percentage of major applications determined within 13 weeks as measured over a 2 year period and secondly the percentage of non- major applications determined within 8 weeks as measured over a 2 year period. Accordingly it is important to continue to meet these targets.

The quality measure is also twofold: firstly the percentage of all major applications determined over a two year period that have been overturned at appeal and secondly, the percentage of all non-major applications determined over a two year period that have been overturned at appeal. The target for both measures is not less than 10% as such it is important to continue to meet these targets.

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

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

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

## 1.0 PLANNING PERFORMANCE

1.1 Set out below are the Planning Service performance figures for 2018/19 so far and showing a comparison against those achieved for 2016/17 and 2017/18. Performance data is published quarterly on the Council's website at <https://new.middevon.gov.uk/planning/performance-standards/>

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

Planning Service Performance	Target	16/17	17/18	18/19			
				Q1	Q2	Q3	Q4
Major applications determined within 13 weeks	<b>60%</b>	90%	82%	75%	71%		
Minor applications determined within 8 weeks	<b>65%</b>	80%	85%	73%	72%		
Other applications determined within 8 weeks	<b>80%</b>	89%	90%	87%	77%		
Householder applications determined in 8 weeks	<b>85%</b>	98%	95%	78%	89%		
Listed Building Consents determined in 8 weeks	<b>80%</b>	84%	84%	73%	50%		
Enforcement site visits undertaken within 15 days of complaint receipt	<b>87%</b>	96%	92%	80%	85%		
Delegated decisions	<b>90%</b>	94%	93%	86%	98%		
No of applications over 13 weeks old without a decision	<b>Less than 45 apps</b>	29	44	68	75		
Major applications determined within 13 weeks (over preceding 2 years)	<b>More than 60%</b>	82%	74%	86%	95%		
Major applications overturned at appeal as % of all major decisions (over preceding 2 years)	<b>Less than 10%</b>	7%	4%	3%	3%		
Non-major applications determined within 8 weeks (over preceding 2 years)	<b>More than 70%</b>	77%	79%	80%	79%		
Non-major applications overturned at appeal as % of all non-major decisions over preceding 2 years	<b>Less than 10%</b>	<1%	<1%	0%	0%		
Determine all applications within 26 weeks or with an extension of time (per annum –Government planning	<b>100%</b>	100%	99%	100%	99%		

guarantee)							
Building Regulations Applications examined within 3 weeks	<b>95%</b>	88%	93%	95%	92%		
Building Regulation Full Plan applications determined in 2 months	<b>95%</b>	91%	96%	99%	97%		

For all applications determined within 8/13 weeks figure now include those where there has been an extension of time and indicate performance targets have been met.

## 2.0 APPLICATION PROCESSING-DEVELOPMENT MANAGEMENT.

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

### Speed:

- Majors: More than 60% of major applications determined within 13 weeks (over 2 year period). Mid Devon performance on this for the last 2 years is **95%**.
- Non majors: More than 70% of non-major applications determined within 8 weeks (over 2 year period). Mid Devon performance on this for the last 2 years is **79%**.

### Quality:

- Majors: No more than 10% of decisions to be overturned at appeal. The Mid Devon figure over the last 2 years is **3%**.
- Non majors: No more than 10% of decisions to be overturned at appeal. The Mid Devon figure over the last 2 years is **0%**.

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

2.2 Application determination performance results for Qu 1&2 18/19 indicate that the national planning performance indicators continue to be met and exceeded by the service in the majority of areas. A few exceptions are in relation to applications in the 'other' category and listed building consents. However this does rely in part upon the agreement of extensions of time with the applicant. There is provision for such agreements in accordance with Government methodology on calculating performance. The number of applications on hand that are over 13 weeks old have also been increasing over consecutive quarters.

2.3 The 'planning guarantee' of 100% of applications determined within 26 weeks was recorded at 99%. Extensions of time are secured which reduces the financial risk to the Council of fee return. Such extensions of time are normally sought in order to secure completion of S106 agreements.

2.4 Over the last 6 months the following posts in the DM team were vacant due to some recruitment difficulties;

1 FTE Conservation Officer  
0.5 FTE Principal Planning Officer,

1 FTE Planning Student  
 0.5FTE Enforcement  
 1 FTE Planning Support Officer

To assist in filling some of these posts we have changed and combine posts and this has now resulted in the following appointments:

1 FTE Principal Planning Officer (combining 0.5 PPO and 1 FTE planning Student)  
 0.7 FTE Enforcement Support Officer  
 0.8 FTE Conservation Officer  
 1 FTE Planning Support Officer

At the time of writing this report recruitment is underway to replace the full time Area Team Leader post due to the current postholder recently handing in his notice to take up a post on another authority.

2.5 Recruitment to vacant posts will allow the service to be back up to full strength and reduce the number of older applications on hand.

### 3.0 PLANNING ENFORCEMENT.

3.1 The Local Enforcement Plan was agreed by Council on 21st February 2018. It sets out prioritisation criteria for compliant investigation together with performance standards. These are now the performance standards we will be monitoring and therefore this is the first quarterly performance report that reflects this agreed approach.

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

Q ref	Details	Q1	Q2
PE01	Register and acknowledge all written complaints. Indicator – within 3 working days	98%	92%
PE02	Highest priority complaint investigation. Indicator - 90% of first site visits before the end of the next working day following registration.	100%	100%
PE03	High priority complaint investigation. Indicator - First site visit within 3 working days of registration.	100%	100%
PE04	Medium priority complaint investigation. Indicator - First site visit within 10 working days of registration.	94%	88%
PE05	Low priority complaint investigation. Indicator - First site visit within 15 working days of registration.	97%	89%
PE06	Initial response to complainant setting out progress or informing about a decision in cases where there is no breach. Indicator – within 5 working days of the date of the initial site visit.	92%	92%
PE07	Notify complainant that Enforcement Notice has been served or decision that ‘no action’ will be taken. Indicator – within 5 working days of the issue of the notice [or decision to take no further action].	TBA	TBA
PE08	New enforcement cases registered (See PE01)	93	104

PE09	<b>Enforcement cases closed (in quarter)</b>	<b>71</b>	<b>77</b>
PE10	<b>Committee authorisations sought</b>	<b>1</b>	<b>1</b>
PE11	<b>Total Notices Served</b>	<b>16</b>	<b>3</b>
	<i>Planning contravention notices served (PCN)</i>	<b>12</b>	<b>2</b>
	<i>Breach of condition notices served</i>	<b>0</b>	<b>1</b>
	<i>Section 215 notice (untidy land)</i>	<b>0</b>	<b>0</b>
	<i>Section 330 notice (requisition for information)</i>	<b>4</b>	<b>0</b>

The total number of open enforcement cases at time of writing this report was 211.

9<sup>th</sup> March 2018: 151

20<sup>th</sup> November 2017: 164

Late September 2017: 160

Early June 2017: 226.

This represents the number of alleged breaches of planning control being investigated at any one time. An administration resource within the enforcement team has recently been recruited following unsuccessful attempts to fill a 0.5 FTE enforcement officer post. This administration support is expected to increase the effectiveness of the two enforcement officers.

#### 4.0 **BUILDING CONTROL.**

4.1 Building Control performance in the assessment of full plans applications was met for these quarters, with the exception of plan checking within 3 weeks in quarter and reflects a fluctuation in staffing. Building Control performance is now primarily reported to the meetings of the joint committee which oversees the Building Control Partnership service that is being operated with north Devon Council.

#### **Contact for Information:**

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#### **List of Background Papers:**

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

#### **Circulation of the Report:**

Cllr Richard Chesterton  
 Members of Planning Committee

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