

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 Tuesday, 23 April 2019 at 2.15 pm

The next ordinary meeting of the Committee will take place on Wednesday, 5 June 2019 at 2.15 pm in the Phoenix Chamber, Phoenix House, Tiverton

STEPHEN WALFORD

Chief Executive
15 April 2019

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**
Members to consider whether to approve the minutes as a correct record of the special meeting held on 17 April 2019 (to follow).
- 5 **CHAIRMAN'S ANNOUNCEMENTS**
To receive any announcements the Chairman may wish to make.

- 6 **ENFORCEMENT LIST** *(Pages 5 - 10)*
To consider the items contained in the Enforcement List.
- 7 **DEFERRALS FROM THE PLANS LIST**
To report any items appearing in the Plans List which have been deferred.
- 8 **THE PLANS LIST** *(Pages 11 - 38)*
To consider the planning applications contained in the list.
- 9 **MAJOR APPLICATIONS WITH NO DECISION** *(Pages 39 - 42)*
List attached for consideration of major applications and potential site visits.
- 10 **APPEAL DECISIONS** *(Pages 43 - 44)*
To receive for information a list of recent appeal decisions.
- 11 **TREE PRESERVATION ORDER 18/00005/TPO - LAND AT 295283 121659, SCOTTS BUSINESS PARK, BAMPTON** *(Pages 45 - 48)*
To receive a report of the Head of Planning, Economy and Regeneration regarding this Tree Preservation Order.
- 12 **PLANNING PERFORMANCE AGAINST TARGETS QUARTER FOUR - 1ST OCTOBER- 31ST DECEMBER 2018** *(Pages 49 - 54)*
To consider a report of the Head of Planning, Economy and Regeneration providing the Committee with information on the performance of aspects of the planning function of the Council for Quarter 4 of 18/19.
- 13 **APPEAL PERFORMANCE** *(Pages 55 - 64)*
To consider a report of the Head of Planning, Economy and Regeneration providing information on the outcome of planning appeals for the financial year 18/19.
- 14 **DECISIONS AGAINST OFFICER RECOMMENDATION** *(Pages 65 - 68)*
To consider a report of the Head of Planning, Economy and Regeneration providing information where the Planning Committee has made decisions not in agreement with officer recommendation.

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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PLANNING COMMITTEE – 23 April 2019

ENFORCEMENT REPORT LIST

1. ENF/19/00053/COU – Change of use of land and buildings to a use for human habitation with ancillary storage, with building works to one building to facilitate the use of human habitation and to the other to facilitate the storage of materials required or intended for use in the building works. – Agricultural Buildings at Ratash Lane, Uffculme.

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Case No. ENF/19/00053/COU

Grid Ref: 308087 112770

Address:

Agricultural Buildings on Ratash Lane, Uffculme

Alleged Breach:

Change of use of land and buildings to a use for human habitation with ancillary storage, with building works to one building to facilitate the use for human habitation and to the other to facilitate the storage of materials required or intended for use in the building works.

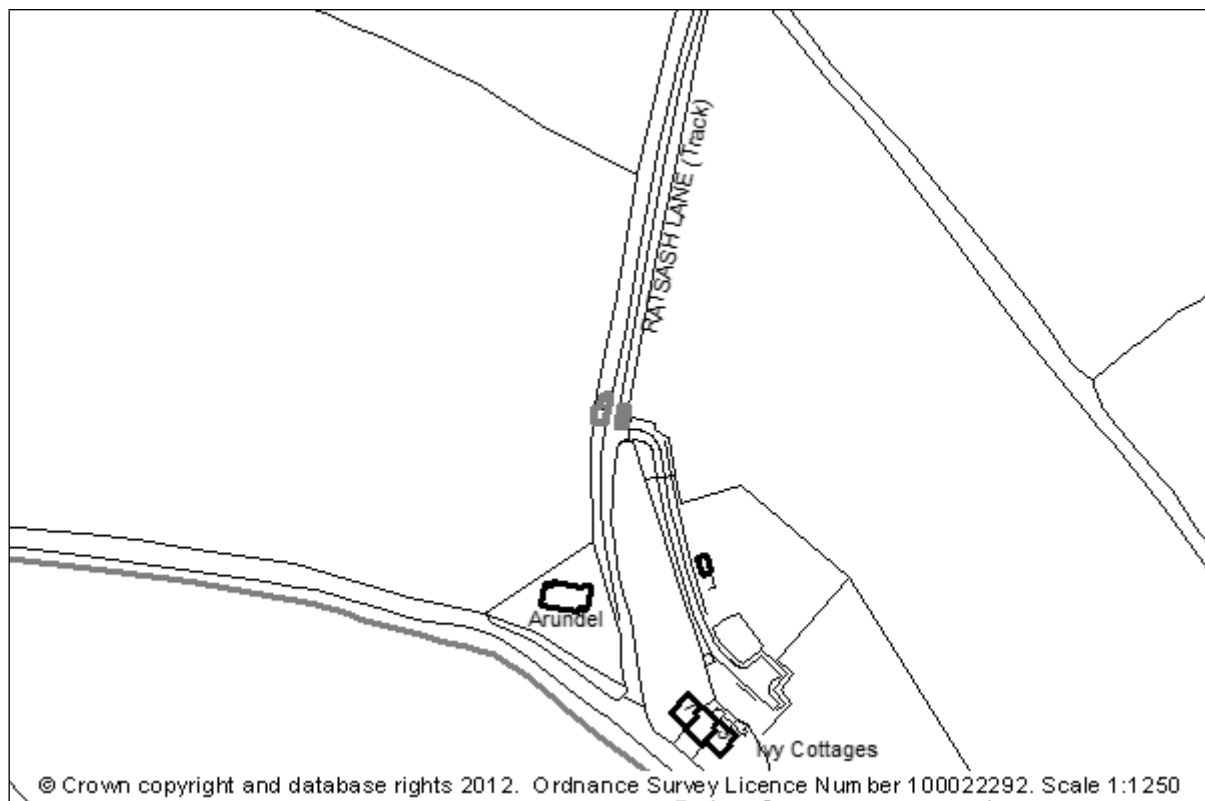
Recommendation:

That Members, having regard to the provisions of the Mid Devon Development Plan and all other material planning considerations in accordance with Section 172, Town and Country Planning Act 1990, ("the Act") should grant authority to the Group Manager for Legal Services to take all such steps and action necessary to secure the cessation of the unauthorised use, including the issue of an enforcement notice and prosecution and/or Direct Action in the event of non-compliance with the notice.

Site Description:

The site is located within the Parish of Uffculme and is adjacent to both sides of a farm track called Ratsash Lane. It is situated to the North of Uffculme Road between Uffculme and Craddock. The surrounding area is largely open countryside, although there is a small collection of dwellings to the south of the site. The building which has been used for human habitation is located immediately adjacent to the trunk of a large oak tree and under the canopy of two oak trees that are both subject of a Tree Preservation Order (TPO).

Site Plan:



Site History:

14/00425/PNPD	Prior Notification for a Change of Use of agricultural buildings to D2 (Class M) - Withdrawn
14/00609/PNCOU	Prior notification for a Change of use of agricultural building to a dwelling house – Not Permitted
14/00030/WR	Appeal APP/Y1138/A/14/2223984 - Appeal Dismissed 01/12/2014

Development Plan Policies:

National Planning Policy Framework

Mid Devon Core Strategy (Local Plan 1)

COR 18 - Countryside

Mid Devon Local Plan Part 3 (Development Management Policies)

Policy DM1- Sustainable development principles

Policy DM2 - High quality design

Policy DM22 - Agricultural development

Policy DM31- Planning enforcement

Reasons/Material Considerations:

On the 24th March 2014 a Prior notification for a change of use of agricultural building to a dwelling house and associated operational development was received under the application Ref 14/00609/PNCOU. This application was refused by notice dated 7 July 2014.

On the 24th August 2014 an appeal with the Planning Inspectorate was recorded against 14/00609/PNCOU. On the 1st December 2014 this appeal was dismissed 14/00030/WR APP/Y1138/A/14/2223984.

On the 22nd March 2017 a complaint was received by the enforcement team alleging unauthorised activities taking place namely the construction and habitation of a dwelling house. On the 13th December 2017 after many months of correspondence and meetings with the planning team, the land owner finally complied with requests to remove the accommodation and returned the structure to agricultural use.

Between October 2018 and February 2019 the Land owner has taken planning advice from four different Planning Officers at Mid-Devon District Council regarding the building of a structure for habitation. It is documented that on each occasion this advice was consistent stating that residential development would not be supported.

On the 31st January 2019, a complaint was received by the enforcement team alleging unauthorised activities taking place namely the construction of a dwelling house and habitation of the said dwelling. A second complaint was received a short time later. Both these complaints each documented that the dwelling was being inhabited on a regular basis.

On the 7th February 2019 a site visit to the location by a Planning Enforcement Officer confirmed the new construction without planning consent. A Planning Contravention Notice (PCN) was then sent to the land owner.

On the 19th February 2019 a Planning Contravention Notice (PCN) was returned by the land owner. The returned PCN confirmed that the structure was being used for habitation by the said land owner.

On the 27th February 2019 a meeting was held with the Land Owner to give instruction regarding the actions required to rectify the breach in planning. A period of one calendar month was given to allow time for compliance.

On the 28th March 2019 a further site visit was conducted by a Planning Enforcement Officer which confirmed that the unauthorised structure was still in place. No entry at this time could confirm habitation of the structure. A written request was sent and posted to the land owner requesting entry into the structure under Section 196A of the Town and Country Planning Act 1990. To date entry has not been gained into the structure.

The development as it has been constructed is considered to be harmful to the overall character and appearance of the countryside. The domestic accommodation, enclosed compound and storage of construction materials is not considered appropriate for this rural setting owing to its detrimental impact on the visual amenity of the surrounding area. The use of a building for human habitation in this location is not sustainable development. The location is beyond any defined settlement limit and is in the countryside where local planning policies do not generally support the provision of buildings (unrelated to an established and lawful dwelling) for human habitation. The development is contrary to Policies DM1, DM2, DM22 and DM31 of the Local Plan Part 3 Adopted 2013 and Policies COR2 and COR18 of the Mid Devon Core Strategy Adopted 2007.

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

Human Rights and Equality Issues:

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

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

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

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

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

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

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

Reasons for issuing the Notice

It appears to the Council that this breach of planning control has occurred within the last ten years. This breach arises from the use of a building on the land for human habitation, including works to the building to facilitate that use. A second pre-existing building is being used for the storage of materials, including building materials. It appears that this storage facilitates, and is ancillary/incidental to, the use and adaptation of the other building for human habitation. Neither the use, nor the works to facilitate it, benefit from planning consent. The Council has concerns that the building may, with further works, become a dwelling and be occupied (whether permanently or intermittently) as such.

The use of a building for human habitation in this location is not sustainable development. The location is beyond any defined settlement limit and is in the countryside where local planning policies do not generally support the provision of buildings (unrelated to an established and lawful dwelling) for human habitation. The building which has been adapted for that purpose, is, by virtue of its domestic appearance and design, together with its siting, scale and mass, an incongruous feature on the site and is considered to be harmful to the overall character and appearance of the open countryside. The adapted building is considered to represent an over-development of the site that has an adverse impact of the visual amenity of the rural area. Furthermore, the building and its use for human habitation is contrary to policy controlling new development in the open countryside. The development is, therefore, considered to be contrary to Policies DM1, DM2, DM22 and DM31 of the Mid Devon Local Plan Part 3 and Policies COR2 and COR18 of the Mid Devon Core Strategy and the National Planning Policy Framework.

PLANNING COMMITTEE AGENDA - 23rd April 2019

Applications of a non-delegated nature

<u>Item No.</u>	Description
01.	18/02000/FULL - Erection of extensions to existing farm shop at Exe Valley Farm Shop, Thorverton, Exeter. RECOMMENDATION Refuse permission.
02.	18/01691/FULL - Erection of a dwelling with associated access at 3 - 4 East End, Poughill, Crediton. RECOMMENDATION Refuse permission.
03.	19/00337/HOUSE - Installation of a dormer window on front elevation to provide first floor accommodation and formation of a raised decking area to rear at 5 Broomhill, Tiverton, Devon. RECOMMENDATION Grant permission subject to conditions.

Application No. 18/02000/FULL

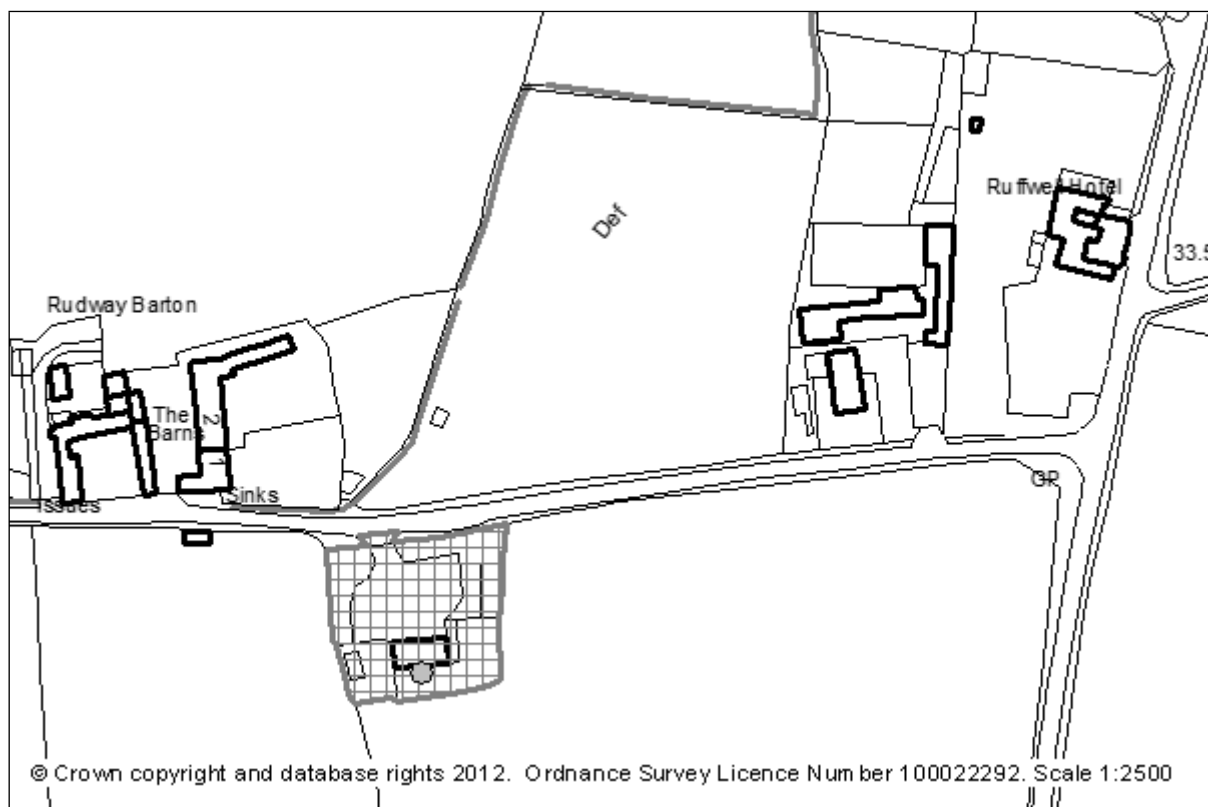
Grid Ref: 294245 : 101531

Applicant: Mr Ross May

Location: Exe Valley Farm Shop
Thorverton
Exeter
EX5 5NB

Proposal: Erection of extensions to existing farm shop

Date Valid: 6th December 2018



APPLICATION NO: 18/02000/FULL

MEMBER CALL-IN

This application has been called in via Cllr Deed and confirmed with the Chair of Planning Committee Cllr Colthorpe as there is currently no elected member to represent the Silverton ward. It has been called in so the acceptability of the proposal can be assessed by the planning committee.

RECOMMENDATION

Refuse permission

PROPOSED DEVELOPMENT

Erection of two extensions to the east and south of the existing Exe Valley farm shop, Silver Street, Thorverton. The extensions would provide the following additional floorspace:

- café/restaurant (187 square metres)
- additional retail floor area (144 square metres)
- office area (131 square metres)
- first floor storage area (136 square metres)

APPLICANT'S SUPPORTING INFORMATION

Planning statement
Existing and proposed plans

RELEVANT PLANNING HISTORY

92/01883/FULL - WD date 1st February 1993
permission to sell processed products from farm shop
09/00685/DET - REC date
Licensing application
17/02057/CLU - PERMIT date 15th February 2018
Certificate of Existing Lawful Use of land and buildings as retail farm shop (A1) car parking, associated outside storage and display for sales areas, internal office and road access in excess of more than 10 years
18/00512/DET - CLOSED date 10th April 2018
Licensing application

DEVELOPMENT PLAN POLICIES

National Planning Policy Statement

Mid Devon Core Strategy (Local Plan 1)

COR2 Local distinctiveness
COR9 Access
COR18 Countryside

Mid Devon Local Plan Part 3 (Development Management Policies)

DM1 Presumption in favour of sustainable development
DM2 High quality design
DM8 Parking
DM19 Rural shopping
DM20 Rural employment development

CONSULTATIONS

Silverton Parish Council - 20th December 2018 - Support

Thorverton Parish Council - 14.02.19

'Thorverton Parish Council is neutral on this application but questions whether there is mains drainage. No further comments'

Highway Authority - 03.01.2019

The Highway Authority is happy with the proposed amended plan and has no further observation to make.

Highway Authority - 18 December 2018

Observations:

The Highway Authority has no objections in principle to the extension, however the size of the store would necessitate that some 43 parking spaces should be available in accordance with the Mid Devon District Council Parking standard. The Local Planning Authority may wish to see the Tarmac car parked marked out to maximise the available space and confirm available space and that it is sufficient for the store.

Recommendation:

THE HEAD OF PLANNING, TRANSPORTATION AND ENVIRONMENT, ON BEHALF OF DEVON COUNTY COUNCIL, AS LOCAL HIGHWAY AUTHORITY, MAY WISH TO RECOMMEND CONDITIONS ON ANY GRANT OF PLANNING PERMISSION

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

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

Historic Environment Team- 21.12.18

I refer to the above application. The proposed development lies in an area of archaeological potential within a landscape that contains a concentration of prehistoric archaeological sites, ranging from large ditched enclosures, site of settlement and possible funerary activity as well as artefactual material recovered from the plough soil in nearby fields. As such, groundworks for the construction of the proposed development have the potential to expose and destroy archaeological and artefactual deposits associated with the known prehistoric activity. The impact of development

upon the archaeological resource here should be mitigated by a programme of archaeological work that should investigate, record and analyse the archaeological evidence that will otherwise be destroyed by the proposed development.

The Historic Environment Team recommends that this application should be supported by the submission of a Written Scheme of Investigation (WSI) setting out a programme of archaeological work to be undertaken in mitigation for the loss of heritage assets and archaeological interest. The WSI should be based on national standards and guidance and be approved by the Historic Environment Team.

If a Written Scheme of Investigation is not submitted prior to determination the Historic Environment Team would advise, for the above reasons and in accordance with paragraph 199 of the National Planning Policy Framework (2018) and the supporting text in paragraph 5.3 of the Mid Devon Local Plan Part 3: Development Management Policy DM27 (2013), that any consent your Authority may be minded to issue should carry the condition as worded below, based on model Condition 55 as set out in Appendix A of Circular 11/95, whereby:

'No development shall take place until the developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation (WSI) which has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out at all times in accordance with the approved scheme, or such other details as may be subsequently agreed in writing by the Local Planning Authority.

Reason

To ensure, in accordance with Policy DM27 and paragraph 199 of the National Planning Policy Framework, that an appropriate record is made of archaeological evidence that may be affected by the development'

This pre-commencement condition is required to ensure that the archaeological works are agreed and implemented prior to any disturbance of archaeological deposits by the commencement of preparatory and/or construction works.

I would envisage a suitable programme of work as taking the form of the archaeological monitoring and recording of all groundworks associated with the proposed development to allow for the identification, investigation and recording of any exposed archaeological or artefactual deposits. The results of the fieldwork and any post-excavation analysis undertaken would need to be presented in an appropriately detailed and illustrated report, and the finds and archive deposited in accordance with relevant national and local guidelines.

I will be happy to discuss this further with you, the applicant or their agent. The Historic Environment Team can also provide the applicant with advice of the scope of the works required, as well as contact details for archaeological contractors who would be able to undertake this work. Provision of detailed advice to non-householder developers may incur a charge. For further information on the historic environment and planning, and our charging schedule please refer the applicant to:

<https://new.devon.gov.uk/historicenvironment/development-management/> .

REPRESENTATIONS

No letters of objection have been received. A petition including 227 signatures has been received in support of the application.

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The application site is the Exe Valley Farm Shop, Silver Street, Thorverton. The Exe Valley Farm Shop is close to the southern boundary of the Mid Devon District, and is located 1.4 miles west from the village of Thorverton, 1.6 miles south of Silverton and approximately 7.7 miles north of Exeter. It is a few hundred metres west of the junction of Silver Street with the A396.

The site is not subject to any special landscape designation, not within an AONB or Conservation Area and is not a listed building. The site is located within flood zone 1.

The site is beyond any defined settlement limit and is in the open countryside. It is surrounded by fields that are bounded by hedgerows. The site sits in a low valley plain location. The site is within the LCT3E: Lowland plains landscape character area which is typified by arable farmland with some areas of improved grassland. Gently rolling middle ground to lowland with smooth, rounded hilltops that have concave and convex upper slopes. Mixed farming is the main agrarian pattern with medium to large scale field patterns with fields generally divided by hedgerows and hedgebanks. The area is generally sparsely populated. Views are highly variable with some long extensive views afforded from on top of hilltops with the landscape being semi-open. The Mid Devon Landscape Character Assessment describes the special qualities of this landscape type as being the textured patchwork with strong sense of seasonal variety, valued contribution to the agrarian character and quality of Mid Devon, wide open spaces with great landscape views and valued hedgerows.

The supporting statement submitted with the application states that a farm shop has been established on the site for 28 years. A certificate of lawfulness for the use of the premises and outside storage areas as a farm shop was granted in 2017. The site currently consists of the existing retail farm shop, with associated indoor and outside storage and display areas for sales, car parking, and ancillary office space within the building. The farm shop is located toward the southern side of the site with parking to the north and east of the building. Access is from Silver Street which runs along the northern boundary of the site.

The management of the farm shop has recently changed which has resulted in refurbishment of the premises. It is stated that at present the farm shop sells home grown beef, lamb, potatoes, local West Country food and drink, natural products, traditional crafts and gifts, plus a range of animal foods. The farm that the existing farm shop is associated with is immediately adjacent to the site.

The proposal seeks to erect two, two storey extensions to the southern and eastern elevations, in order to provide additional internal retail floorspace, café/restaurant with toilets and kitchen facilities, a storage/distribution area at first floor, first floor offices and further shop display areas.

The site is a substantial size and incorporates parking, outside display storage and sales areas. The proposed development would seek to retain the outdoor space surrounding the building to the front (northern/western elevations), extending the building on the eastern and rear southern elevations which contains space that is not currently in use.

The main issues in the determination of this application are:

- Policy;
- Design of the development – scale, bulk, mass and external appearance and the impact on visual amenity of surrounding rural area;
- Impact on the vitality and viability of town centre and village shopping facilities;
- Access and parking;
- Other matters: surface water and foul drainage; landscaping

Policy

National Policy Context

The revised National Planning Policy Framework was published on 19th February 2019 and sets out the government's planning policies for England and how these are expected to be applied. This revised framework replaces the previous NPPF published in 2018 and maintains that the objective of the planning system is to achieve sustainable development..

Chapter 6 of the NPPF states that planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local businesses and wider opportunities for development. Paragraph 83 states that planning policies and decisions should enable the (a) sustainable growth and expansion of all types of businesses in rural areas, both through the conversion of existing buildings and well-designed new buildings and (d) the retention and development of accessible local services and community facilities, such as local shops.

Chapter 12 of the NPPF 'Achieving well-design places', paragraph 124 states that the creation of high quality buildings is fundamental to what the planning and development process should achieve as good design is a key aspect of sustainable development.

Para 127 states that planning policies and decisions should ensure that developments:

"a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;

b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;

c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);

d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;

e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and

f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience".

Para 130 states that planning permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area.

Local Policy context

The Mid Devon District Council Local Development Framework consists of the Core Strategy, Allocations and Infrastructure Development Plan Document and Local Plan Part 3: Development Management Policies. In addition to this the Local Planning Authority has recently completed a Local Plan Review. These new policies have been examined in public by the Planning

Inspectorate and the Inspectors report is expected very soon. These policies currently contain some weight, but as the Plan moves through the stages toward adoption they will gain more weight in decision making. The most relevant policies for the consideration of this proposal are MDCS COR2 and COR18 and policies DM2, DM8, DM19 and DM20 LP3 (DM Policies).

Policy COR2 requires development to sustain the distinctive quality, character and diversity of Mid Devon's environmental assets through (a) high quality sustainable design which reinforces the character and legibility of Mid Devon's built environment and creates attractive places. This approach is reinforced in policy DM2 LP3 which requires development to be high quality and to demonstrate a clear understanding of the characteristics of a site, its wider context and surrounding area; efficient and effective use of the site; positive contribution to local character; creation of safe and accessible places; visually attractive places that are well integrated with surrounding buildings and landscapes taking into account architecture, siting, layout, scale and massing, orientation and fenestration, materials and landscaping; appropriate drainage.

Policy COR18 – Countryside states that development outside of settlements will be strictly controlled, enhancing the character, appearance, and biodiversity of the countryside while promoting sustainable diversification of the rural economy. Detailed development control policies will permit agricultural and other appropriate rural uses, subject to appropriate criteria, as follows:

- b) appropriately scaled retail, employment, farm diversification and tourism related development (including conversion of existing buildings);*
- c) appropriately scaled and designed extensions and other physical alterations to existing buildings;*

Policy COR18 is reinforced within the more detailed Development Management Policies of LP3. Policy DM19 (rural shopping) indicates that retail development will be permitted within defined villages, where it will meet local needs and is accessible by a range of transport modes; elsewhere in the countryside, proposals for retail development must demonstrate that:

- a) the location and scale of the development would not harm the vitality and viability of town centre or village shopping facilities;
- b) the development would not lead to an unacceptable impact on the local road network; and
- c) there would not be an unacceptable adverse impact to the character and appearance of the countryside.

The expansion of the Exe Valley farm shop would provide a considerably larger retail enterprise in the countryside. A retail business is considered to be an employment use and therefore policy DM20 is also relevant to the consideration of the proposal. Policy DM20 states that that in countryside locations, planning permission will be granted for new-build employment or expansion of existing businesses provided that the development is of an appropriate use and scale for its location. Proposals must demonstrate that:

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

Matters relating to access and parking are covered by the requirements of policy COR9 MDCS and DM8 LP3. COR9 requires development and transport planning to be co-ordinated to improve accessibility to all. DM8 requires development to provide an appropriate level of parking, taking into account the accessibility of the site, the availability of public transport and the type, mix and use of the development.

Design of the development – scale, bulk, mass and external appearance and the impact on visual amenity of surrounding rural area.

Policies COR2 and COR18 MDCS, DM2, DM19 and DM20 LP3 and the NPPF set out the criteria for the assessment of the proposal in terms of scale, bulk, mass, external appearance and impact on the visual amenity of the surrounding area.

The proposal seeks to erect two, two storey extensions to the southern and eastern elevations, in order to provide additional internal retail floorspace, café/restaurant with toilets and kitchen facilities, a storage/distribution area at first floor, first floor offices and further shop display areas.

The site is a substantial size and incorporates parking, outside display storage and sales areas. The proposed development would seek to retain the outdoor space surrounding the building to the front (northern/western elevations), extending the building on the eastern and rear southern elevations which contains space that is not currently in use.

The external appearance of the existing farm shop consists of render block walls and green painted timber panels above with a slate roof. The proposed extensions would have an external appearance consisting of rendered block with vertical timber boarding above, a slate roof to match the existing, lindab guttering and UPVC double glazed windows and doors. The materials palette could potentially be acceptable, if the scale of the proposals was considered to be acceptable as the proposed materials are commonly used for the external facades of rural buildings.

The extensions would wrap around the south and eastern side of the existing building, would be 2m higher than the existing building and would also project northwards of the north elevation of the existing building. The existing farm shop would be engulfed by the extensions and effectively lost within the bulk, mass and overall scale of the proposed development.

The extension to the south of the existing building would be 26.5m long, 8m wide and 7.5m high to the ridge. This would represent a doubling of the footprint of the current building. The extension to the north would be 22m long, 8.5m wide and 7.5m high to the ridge of the roof. The footprint of the building would be almost triple that of the existing building.

Internally the extensions would allow for the following additional floorspace:

- Additional retail space = 144 square metres;
- Café/restaurant = 187 square metres;
- First floor office = 131 square metres;
- First floor storage = 136 square metres.

Cumulatively this represents a floor area of 598 square metres (as stated in the planning statement submitted) and a 300% increase in floor area upon the existing retail floor space of 146 square metres.

It is accepted in principle that policy DM19 supports the provision of retail development (particularly where it is the expansion of an existing retail facility) in the open countryside subject to meeting certain criteria. While the Local Planning Authority consider the principle of utilising part of the unused area to the east and southern sides of the current building to provide a larger facility may be acceptable, the excessive scale of the proposed extensions has not been justified and would have a detrimental impact on the visual amenity of the surrounding rural area.

The planning statement submitted with the application states that the proposal will aid in facilitating the growth of the business, with the scale and design of the proposal seeking to reflect the existing

site and its rural surroundings. While this may be the aspiration of the proposal, and the Council supports the sustainable growth and expansion of business and enterprise in rural areas, while protecting the predominance of town centres for meeting the district's retail needs; the local planning authority consider that the proposed development does not reflect the character and appearance of the conspicuous rural location; the scale of the existing farm shop or an acceptable scale for a rural retail facility.

The scale of the proposed extensions are considered to be unacceptable and out of keeping with the scale, bulk and mass of the existing farm shop. Neither are the external appearance of the extensions considered to be acceptable as although the design approach to the north elevation extension is not without some merit, the appearance of the south and east elevations, particularly with regard to the size and placement of window openings, are considered to be incongruous with the appearance of the farm shop and detrimental to the visual amenity of the surrounding rural area.

The applicant has described the inclusion of large windows and doors, particularly on the northern and eastern elevations, to allow for extensive amounts of natural light to enter the tea rooms/café, integrating the external rural landscape with the new inviting spacious internal layout. The Local Planning Authority consider that the placement, pattern and size of the window openings detracts from the more straight forward agricultural appearance of the premises. The size and form of this fenestration results in confusing and unattractive elevations suggestive of an office enterprise/industrial use in an urban environment rather than reflecting the rural context of the site and the function of the building. The large glazed opening across the ground floor of the northern side of the easterly extension is more successful with a better form and appearance.

In addition the proposal would not integrate well with the existing building and its surroundings and would be extremely visible within the local landscape which would add to the impact on the visual amenity of the rural area. While being very visible, particularly from a main road such as the A396 is likely to be good for additional business and advertisement by default, this would be at the detriment to the surrounding open rural area. The proposed extensions would result in an architecturally unattractive building with an incoherent design that would not preserve or enhance the visual amenity of the site, would not result in a sustainable form of rural development and would not be sensitive to the rural surroundings contrary to the applicants planning statement and to policies COR2, COR18 MDCS and DM2, DM19 and DM20 LP3.

The proposed internal layout would allow the flow of customers through the retail and café/restaurant areas on the ground floor. The proposed plans show the provision of a very large office area at first floor as well as the provision of a very large store area also at first floor. The practicalities of having storage at first floor, only accessible by an internal stairwell do not appear to have been considered and would result in an unworkable arrangement. The size and potentially illogical location of uses within the building could have an effect on its external appearance and is considered to be a matter that would need to be addressed to improve the functionality of the building in its extended form.

Impact on the viability and vitality of town centre or village shopping facilities

Policy DM19 (a) Local Plan Part 3 (Development Management Policies) requires retail development in the open countryside to demonstrate that the location and scale of the development would not harm the vitality or viability of town centres or village shopping facilities.

The proposed development would provide a considerably larger retail floorspace, as shown on the submitted plans, and even more additional space if the internal layout of the extended building

were to be reorganised. No details have been provided of the goods and products that would be sold from the expanded retail facility, only details of what type of goods have been sold on site recently have been included. It is assumed with a premises 300% larger overall than existing building that the goods being sold will not be restricted to products that originate from the farm associated with the farm shop. While the business would be able to expand if the extensions as proposed were approved, it is not known what product lines or types would be added. There are currently no restrictions on the products that can be sold from the premises as permission was granted through the issuing of a Certificate of Lawfulness in 2017. Rather than remaining as a farm shop, the scale of the proposed extensions could result in the premises becoming a rural shopping destination in the open countryside, the scale of which could have an impact on the district's wider retail needs.

No information has been submitted with the application to demonstrate what impact a considerably larger retail facility in this location (452 square metre (300%) increase in the size of the building) will have on the vitality or viability of town centre or village shopping facilities or to justify the size of the extensions. As the building is proposed to be substantially increased in size it is considered to be essential that the impacts of the proposal are understood. In the absence of this information and because an unrestricted retail facility with a total floor area of approximately 600 square metres in the open countryside is not considered to be in accordance with the criteria of policy DM19, the proposed development is considered to be contrary to policy DM19 (a) Local Plan Part 3 (Development Management Policies) and policy COR18 MDCS.

The applicants statement, while noting a number of the relevant planning policies does not make any reference to policy DM19 'Rural shopping' which is arguably one of the most important planning policies in the assessment of this application. Assessment of the proposal against this policy identifies that the application proposal has not been justified and is contrary to the requirements of this policy.

Access and parking

The proposal seeks to use the existing access to the site from Silver Street. The site access is relatively close to the junction of Silver Street with the A396. It is acknowledged in the supporting planning statement that the expansion of the premises would attract more visitors to the site, who are most likely to arrive by private vehicle due to the location in the open countryside. The existing site access provides good visibility when entering and leaving the premises. The application does not propose to make any physical changes to the access to the site.

There is sufficient parking on the site to accommodate the existing number of visitors. The Highway Authority advised that further spaces and potentially the formalising of spaces to the front (north side) of the building would be needed in association with the proposed extensions. A revised plan has been received that addresses the previous concerns of the Highway Authority. The Highways Authority have raised no objections to the proposed development. The development is considered to be in accordance with policies COR9 and COR18 MDCS and policies DM2, DM8, DM19 and DM20 LP3 (DM Policies) with regards to access and parking for the proposed development.

Other matters: surface water and foul drainage, landscaping

Surface Water and Foul Drainage

The planning statement submitted with the application indicates that surface water is proposed to be connected to an existing drainage system. Lindab guttering is proposed to be provided around the roofline of the extensions to connect surface water into downpipes to the existing soakaway. The site is additionally located within flood zone 1 and therefore the use of soakaways is achievable in principle.

Foul sewage will be disposed of via the main sewage drainage system which the existing building is already connected to. As satisfactory drainage solution has been suggested the development is considered to be in accordance with policy DM2 LP3 (DM Policies) with regards to drainage provision.

Landscaping

No additional landscaping has been proposed as part of the proposal, however the applicants planning statement indicates that landscaping could be provided if considered to be necessary. While the establishment of a native hedgerow and tree planting around the perimeter of the site, especially to the east and south of the site, would upon maturity help to filter views of the proposed development, it would take a considerable amount of time for new landscaping to sufficiently filter views of the development to help it assimilate into the surrounding landscape sufficiently. The Local Planning Authority consider that a more appropriate scale of extension to the building on the site plus additional landscaping would potentially be a considerably more effective way of establishing a larger development on the site that could sit comfortably within the landscape.

Impact on nearby residents

There are some neighbouring dwellings and their associated outbuildings situated towards the northern and north west side of the site, however these are not in very close proximity to the site. The Ruffwell Inn is north east of the site. The provision of the extensions to the farm shop would not result in any significantly detrimental impacts on the privacy or amenity of occupiers of nearby dwellings or users of the facilities at the public house. The natural boundaries to the west of the site would help to filter some views of the site from the west. The north, south and east of the building would be visible in the landscape, although there would be no detrimental impact on privacy of nearby residents as a result. With regard to impact on occupiers of nearby properties the development is considered to be in accordance with policy DM2 (e).

Conclusion

Overall, the proposed extensions to the existing building at Exe Valley Farm Shop by virtue of their excessive scale, including their considerable height, bulk and mass and their external appearance are not considered to reflect the context of the site in the open countryside and would have an adverse impact on the character and visual amenity of the surrounding rural area. The proposed building as extended would not integrate well with the existing farm shop building, it would be engulfed by the scale of the proposals and would become a minor part of a considerably larger retail function. The building, following the extensions as proposed would be 300% (452 square metres) larger than the current building at 146 square metres.

The proposed development would provide considerably more retail floorspace. No details have been provided of the goods and products that would be sold from the expanded retail facility, only details of what type of goods have been sold on site recently have been included. No information has been provided regarding an assessment of what impact the considerably larger retail facility in this location could have on the vitality and viability of existing local village shops. It is not considered that an unrestricted rural retail facility of circa 600 square metres is in accordance with the requirements of policy COR18 MDCS or policies DM2 and DM19 LP3 (DM Policies).

In addition to the concerns regarding the proposed scale of the extended farm shop, it is also considered that the external appearance of the proposed extensions would detract from the simplicity and typically rural/agricultural character and appearance of the existing building and would have a detrimental impact on the visual amenity of the surrounding rural area. The increased height of the buildings on site would dwarf the existing building and along with the increased mass of the building through the expanse of the southern and eastern extensions, would make the building considerably more visible in the local landscape. The poor external appearance of the proposed southern and eastern elevations, the excessive height, bulk and mass of the

proposed extensions, coupled with the low lying open countryside location, would result in the building having a harmful impact on the character and visual amenity of the surrounding rural area contrary to policies COR2 and COR18 MDCS, policies DM2, DM19, DM20 LP3 (DM Policies) and the NPPF.

REASONS FOR REFUSAL

1.The proposed extensions to the existing building at Exe Valley Farm Shop, by virtue of their excessive scale, including their considerable height, bulk and mass and their external appearance, are not considered to reflect the context of the site which is in a visibly prominent position in the open countryside. The proposed development would have an adverse impact on the visual amenity and character of the surrounding rural area. The proposed building as extended would not integrate well with the existing farm shop building; the design is incoherent and incongruous with the simplicity, scale, character and appearance of traditional rural buildings in the area. The proposal is therefore contrary to policies COR2 and COR18 Mid Devon Core Strategy, policies DM2, DM19 and DM20 Local Plan Part 3 (Development Management Policies) and the NPPF.

2.Policy DM19 (a) Local Plan Part 3 (Development Management Policies) requires retail development in the open countryside to demonstrate that the location and scale of the development would not harm the vitality or viability of town centres or village shopping facilities. No information has been submitted with the application to demonstrate what impact a 452 square metre (300%) increase in the size of the building will have on the vitality or viability of town centre or village shopping facilities. As the building is proposed to substantially increased in size it is considered to be essential that the impacts of the proposal are understood. In the absence of this information the proposed development contrary to policy DM19 (a) Local Plan Part 3 (Development Management Policies).

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. 18/01691/FULL

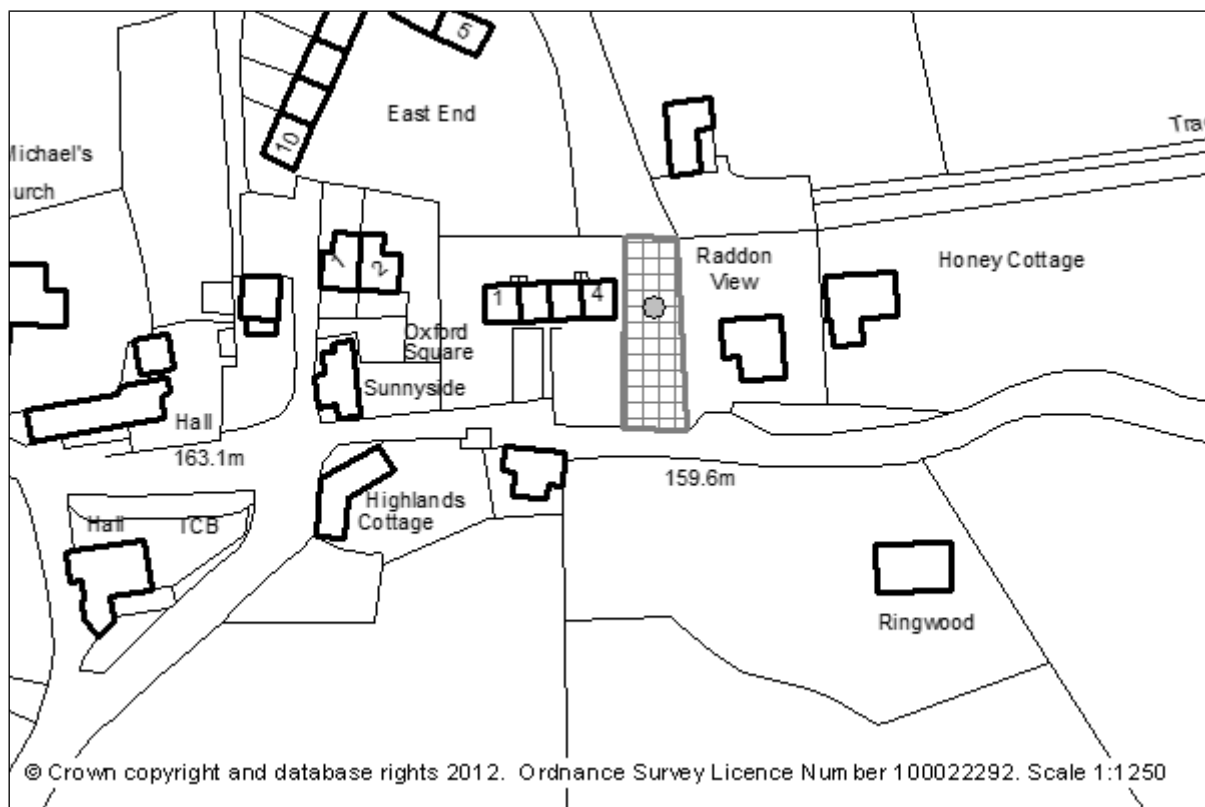
Grid Ref: 285772 : 108457

Applicant: Mr A Busby

Location: 3 - 4 East End
Poughill
Crediton
Devon

Proposal: Erection of a dwelling with associated access

Date Valid: 17th October 2018



APPLICATION NO: 18/01691/FULL

MEMBER CALL-IN

This application is to be determined by the planning committee as the applicant is the Local Authority.

RECOMMENDATION

Refuse permission

PROPOSED DEVELOPMENT

Planning Permission is sought for the erection of a dwelling with associated access on land to the east of 3 - 4 East End, Poughill. The site which is fenced off has been used as a private garden for 4 East End. The proposal seeks to create a detached two storey property which would have 4 bedrooms and attached single garage, with an associated driveway to be created with 2 no. parking spaces.

APPLICANT'S SUPPORTING INFORMATION

Application form, site location, survey plan, floor plans and elevations (proposed). Design and Access Statement

RELEVANT PLANNING HISTORY

09/00604/FULL - WD date 1st May 2009

Creation of hardstanding and parking bay and formation of ramp

09/00775/FULL - PERMIT date 9th July 2009

Creation of hardstanding and parking bay and formation of ramp

DEVELOPMENT PLAN POLICIES

Mid Devon Core Strategy (Local Plan 1)

COR1 Sustainable Communities

COR2 Local Distinctiveness

COR3 Meeting Housing Needs

COR7 Previously Developed Land

COR8 Infrastructure Provision

COR9 Access

COR11 Flooding

COR12 Development Focus

COR18 Countryside

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

AL/IN/3 Public Open Space

Mid Devon Local Plan Part 3 (Development Management Policies)

DM1 Presumption in favour of sustainable development

DM2 High Quality Design

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

CONSULTATIONS

Poughill Parish Council – 20th November 2018

Poughill Parish Council is of the belief that, in or around 2013, there was consideration, by MDDC, to using this plot for social housing. If so, the view is that such use should be prioritised again.

Public Health – 6th November 2018

Contaminated Land - No objection to this proposal

Air Quality - No objection to this proposal

Environmental Permitting - No objection to this proposal

Drainage - No objection to this proposal

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

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

Housing Standards - No comment

Licensing - No comments

Food Hygiene - Not applicable

Private Water Supplies - If a private supply is to be used by more than one property or has a commercial function, The Private Water Supply (England) Regulations 2016 as amended will apply. A risk assessment and sampling regime will be necessary. The supply must not be used until the Local Authority (Mid Devon District Council) is satisfied that the supply does not constitute a potential danger to human health, including single domestic use.

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

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

Health and Safety

Highway Authority – 7th November 2018

Standing advice applies please see Devon County Council document

<http://www.devon.gov.uk/highways-standingadvice.pdf>

The proposal would provide an access with a parking area for two vehicles.

Environment Agency: - Operational development less than 1 ha - within flood zone 1 - No EA consultation required.

REPRESENTATIONS

Four letters of objection have been received with the objections summarised as follows:

- Statements made within the planning application are incorrect. The site concerned is currently a vacant plot; it is not currently being used as a private garden by either 3-4 East End or Raddon View, the two adjacent properties. Both adjacent properties have gardens of their own which are separated from the site by fencing.

- The existing boundaries are not 'post and rail fence and hedge' as one of the boundaries is chain link fencing and another is chain link fencing with some very old and dilapidated wooden fencing in places.
- There is currently no pedestrian access from the public highway.
- Parking provision is required as private transport is essential given the very limited bus service (one bus a week to Tiverton, one bus a week to Crediton, two buses a week to Exeter and five buses a week to Sandford).
- There is a mature hedge running along the boundary with Raddon View and the plans appear to propose building right up to this boundary, therefore risking disturbance to the roots of the hedge during the laying of the foundations.
- Reference to a 'previous structure that was burnt down' is actually the house on the adjacent site at 3-4 East End damaged by fire but since repaired and refurbished.
- Planning Application 03/05097/FUL is not relevant to this application as whilst it concerns the land on the opposite side of the road, the house itself and the vehicle access are some way further down South Yeo Hill.
- The dwelling proposed does not take design details, scale, position and orientation from the surrounding existing buildings to integrate itself into the local character as stated. Other four bedroom properties have gardens to either side where as this dwelling will be built to the boundary, representing overdevelopment being out of keeping with the character of the area.
- The land on site drops away quite steeply by about 5 feet between the East boundary and the foot of Raddon View, which means that the new development will sit at a higher level than Raddon View.
- Foundations of the new development could impact the existing bank if it is positioned right on the boundary as proposed.
- This particular site has never been 'previously developed' as referred to in the submission.
- With regard to Policy COR9, there is no real sustainable transport to serve the development.
- There are few facilities with no 'Poughill school' as indicated in the submission.
- The proposed rear amenity space is quite small, especially for a four bedroom detached property and when compared to the garden area of the three nearby four bedroom detached houses (Raddon View, Honey Cottage and Ringwood).
- It is stated here that the proposed new development will connect the 'two existing properties of Raddon View and Honey Cottage to the settlement pattern' but these two properties are already connected to the settlement pattern.
- The property proposed would have front facing dormers which are not in existence on neighbouring properties.
- The proposed development seems to be more suited to an urban setting rather than the open countryside setting at Poughill.
- Concerns are raised to another house being built on South Yeo Hill, given the state of the road at the bottom which is essentially un-driveable by car.
- Concerns are raised that contractors will block the road during any construction of a new dwelling resulting in residents having to use the bottom road which is in a poor state in need of repair.
- It is a pity that MDDC are seeking to maximise their revenue from the sale of this plot by seeking for permission to squeeze a four bedroom property in, rather than encouraging a developer to build a house that would be affordable to first time buyers in order to meet the real housing need in this area.

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The application is for the erection of a new dwelling with associated access on land located in the small village of Poughill which is located approximately 8km north of Crediton and 9km southwest of Tiverton. The site is surrounded on two sides by residential dwellings which are 2 storeys in height with the dwellings set back from the road. To the North of the site is a dense wooded area whereas to the West is the property of 3-4 East End with the neighbouring property of Raddon View to the east. To the South, the site is bounded by the public highway 'South Yeo Hill'.

The main issues in the determination of this application are:

- 1. Policy**
- 2. Highways and highway safety**
- 3. Design and appearance of development and visual impact on landscape**
- 4. Living conditions of the occupiers of nearby residential properties**
- 5. Other issues raised**
- 6. The planning balance**

1. Policy

S.38 [6] of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the Development Plan, unless material considerations indicate otherwise. The National Planning Policy Framework (the Framework), published by the Government in March 2012 and revised in 2018, is noted as one such material consideration. Poughill is not classified within the local plan as a village with a settlement limit, with the nearest such settlement being Cheriton Fitzpaine which is two miles to the south east. As such, a key issue relates to the principle of the development for an open market dwelling on this site as this proposal represents the creation of new dwelling outside the recognised settlement limits, being countryside in policy terms.

The Mid Devon Core Strategy 2007, in its Policy COR1, sets the distribution of new development to meet sustainability objectives; with Policy COR12 concentrating development principally on the 3 main towns. Outside the main town areas, developments are to be limited to those which support rural uses. Policy COR2 seeks to ensure development that will 'sustain the distinctive quality, character and diversity of Mid Devon's environmental assets', particularly through requiring high quality sustainable design which will reinforce the character and legibility of its built environment. The site is outside any settlement limit boundary and is therefore considered to be in the open countryside in planning terms, where restrictive policies apply. Policy COR18 seeks to restrict new development in the countryside. It sets out the types of development which are considered to be acceptable in principal and this does not include new open market dwellings. The proposal is therefore considered to be contrary to policy COR18.

In view of the above and having regard to what the NPPF states, the issue then is whether there are material considerations that would justify the development despite this conflict with the development plan. At appeal in 2016 the Authority was found not to be able to demonstrate a 5 year housing land supply. The NPPF advises that where a five year land supply of deliverable housing sites cannot be demonstrated, policies on housing supply should not be considered up to date. This includes settlement limits identifying areas which are countryside and those which are within defined settlements. At the present moment in time, the Local Planning Authority is awaiting the publication of the Housing Delivery Test by the government to enable the most up to date position however the Forward Planning Team are of the view that the Local Planning Authority can demonstrate that the LA have a 5 year housing land supply with the public examination sessions

of the emerging local plan having now taken place in February of this year with an update expected shortly by the Planning inspector.

Notwithstanding this, in the event that the view is taken that a 5 year housing land supply could not be demonstrated, Paragraph 11 of the NPPF states that where development plan policies are considered to be out of date, planning permission should be granted unless adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the NPPF as a whole OR specific policies in the NPPF indicate development should be restricted. Housing applications need therefore to be considered in the context of sustainable development, unless specific policies indicate development should be restricted. Paragraph 8 of the NPPF outlines the three objectives of sustainable development, being those of economic, social and environmental. It is considered that each objective needs to be satisfied for a proposal to be considered a sustainable development.

With regard to the Council's emerging policy (Local Plan Review), the strategy for development focus will be at Tiverton, Cullompton and Crediton as identified in policy S1 and S2. It does not propose to allocate any part of the site as a residential allocation but accordingly only limited weight can be attached to the policies and proposals, but this could change shortly following the Planning Inspectors report. The application scheme here would lead to the provision of a new dwelling in the countryside in policy terms, which would in most circumstances be contrary to the policies of restraint in the Development Plan. The village of Poughill comprises few facilities and services with the village set within a rural setting with a reliance on private transport by residents to access necessary day to day services.

It is noted that a recent planning decision was allowed on appeal for a dwelling in the village of Upwotton which is also a village with no settlement limit. In this case the Planning Inspector concluded that applying the 'tilted balance' outlined in paragraph 11(d) of the Framework, this indicates that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. With the proposal in Upwotton the Planning Inspector commented 'I have found that no harm would arise in respect of character and appearance, biodiversity or drainage. These matters are, therefore, neutral in the planning balance. However, I have found that the proposal complies with the Framework in terms of the location of development. The delivery of housing in accordance with the policies of the Framework is a benefit as is the potential support for local services that would result. Given the reduced weight that I have attributed to the conflict with the development plan, that harm does not significantly and demonstrably outweigh the benefits. Therefore, applying the tilted balance the presumption in favour of sustainable development applies. I give this substantial weight.'

With respect to the village of Poughill it is considered that there are even fewer facilities within the village having to school for example. Paragraph 78 indicates that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Where there are groups of smaller settlements, development in one village may support services in a village nearby. Neither the adopted or proposed Development Plan documents propose new development at Poughill. The village itself has limited local services such as a church, hall and small scale upholstery business. Therefore the creation of a single dwellinghouse in Poughill is unlikely to support these very limited local services. The potential use of home delivery grocery shopping services from supermarkets in Tiverton or Crediton (there is no evidence that more local shops would provide this service), would be of no benefit to the existing services in the local rural community.

Paragraph 79 indicates that planning decisions should avoid development of isolated homes in the countryside unless one or more circumstances apply. In this case there is no evidence that there

are special circumstances that would justify the development on the basis of a claimed essential need. None of the other circumstances apply in this instance.

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

Whilst reference made to the site being previously developed land, The High Court in March 2017 held that the term 'previously developed land' as defined by the glossary forming part of the NPPF does include private residential gardens in an area that is not built-up. In any event this finding is not determinative, because paragraph 118 of the NPPF requires that planning decisions should give substantial weight to the value of using suitable brownfield land within settlements (our emphasis) for homes and promote and support the development of under-utilised land and buildings especially if this would help to meet identified needs for housing where land supply is constrained. However, the NPPF also (at paragraph 170) indicates that planning decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside. This is pertinent in the three dimensions of sustainable development which should not be considered in isolation. Therefore, even if the vacant site was previously used as garden and therefore considered as previously developed land, the planning balance carried out as a measure of sustainable development later in this report, indicates that planning permission should not be granted.

2. Highways and highway safety

Policy COR9 of the Mid Devon Core Strategy [Local Plan part 1] requires that proposals are in accessible locations and road safety is managed through control of development. Policy DM2 of the Local Plan 3 Development Management Policies requires development to be safe and accessible. The site plan shows that the proposed access to serve the residential development would be located centrally with visibility splays on either side. Sufficient space to provide at least 2 parking spaces for the dwelling are to be provided which would accord with the parking standards required by policy DM8 of the Local Plan 3 Development Management Policies.

Notwithstanding the above concerns relating to the location of the site remain. From a highway safety point of view, it is considered that the development would be able to achieve the required safety requirements relating to access width and visibility splays. The accessibility of the site from main services and facilities such as schools and shops, outside of use of a private vehicle is questioned from a sustainability point of view with little scope to encourage sustainable modes of travel such as walking and cycling as outlined through DM2 of the Local Plan 3 Development Management Policies and Policies COR8 [Infrastructure Provision] and COR9 [Access] of the Core Strategy which require new development to be planned to meet the social and economic needs of the community and reduce the need to travel by car.

The National Planning Policy Framework aims to guide development to sustainable locations and reduce the need to travel and facilitate sustainable modes of transport. As commented upon, the bus service is limited with the site being remotely located from services, schools and shops which occupiers might need, with the nearest town centre with a wide range of facilities being either those of Tiverton (approximately 9 miles by car) or Crediton (approximately 6.5m by car). Therefore occupiers of the development are more likely to be dependent on private transport.

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

As far as the general design, scale and appearance of the dwelling proposed is concerned, a proposal for a two storey dwelling having a natural slate roof covering and red brick plinth and painted render walls would be acceptable in accordance with Policies DM2 and DM14 of the Local

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

In terms of the visual impact on the landscape, amended plans have been received which reduce the scale of the development from that originally submitted which would allow for a dwelling having an access along the boundary with the neighbour to the east. The neighbouring property to the east is located lower down but given that the property proposed is two storey with a maximum height of 8.8m and set further back into the site, it is considered that the relationship would be acceptable and not sufficient alone to warrant a planning refusal.

4. Living conditions of the occupiers of nearby residential properties

Paragraph 17 of the NPPF indicates that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. This is reflected in policy DM14 of the Local Plan 3 Development Management Policies which sets out that new development should respect the privacy and amenity of neighbouring residents. The overall design and layout of the proposed dwelling would ensure adequate separation distance between the proposed dwelling and any other neighbouring residential property. No windows are proposed in the side elevations which could result in overlooking and given the position of the dwelling, it is not considered to result in any significant loss of light to a neighbouring property. Overall, it is considered that the development would comply with policy DM2 of LP3 DMP with regard to allowing sufficient amenity for neighbouring users.

5. Other issues raised

A number of objections have been raised to the disrepair of a lower section of the road and potential disruption from construction traffic, but it is not considered that these matter would be sufficient to warrant a refusal of the planning permission as it is a public highway and can be used by all road users and any blockages could be dealt with by the police.

The application involves land currently fenced off but was used for garden land and therefore is not accompanied by a Wildlife Report to confirm the presence or absence of any noted wildlife. However the applicant would still need to comply with the Wildlife and Countryside Act 1991, and the Conservation of Habitats and Species Regulations 2010.

6. Planning Balance

The NPPF sets a strong emphasis on the delivery of sustainable development. Fundamental to the social role is supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations. The NPPF is clear that delivering sufficient housing is a key consideration for Local Authorities. Notwithstanding whether or not the Council is able to demonstrate that it has a 5 year supply of housing land this proposal would only make an incremental numerical contribution to housing stock, rather than in terms of appropriateness.

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

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

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

Policies COR2 'Local Distinctiveness', DM2 'High Quality Design' and DM14 'Design of Housing' seek to ensure that development respects landscape character and otherwise integrates appropriately with its surroundings. The NPPF sets out that planning should recognise the intrinsic character and beauty of the countryside and that it is appropriate to reinforce local distinctiveness. It could be argued that a two storey dwelling on a site located between two residential dwellings within a village setting would be in accordance with these policies but does not overcome the principle objection of an open market dwelling in this location.

Whilst acknowledging that opportunities to maximise the use of sustainable modes of transport will vary from urban to rural areas, the NPPF nonetheless sets out that planning should actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling. The avoidance of environmental harm resulting from private vehicular use to access services and facilities is an underlying aim common also to the spatial approach in the local plan. Poughill itself has little in the way of local services. Therefore, the creation of a single dwellinghouse in this village is unlikely to support these very limited local services. The nearest services and facilities catering for the majority of day-to-day needs are beyond a convenient walking distance from the site. Moreover the nature of the route that must be taken to such is unwelcoming to pedestrians or cyclists, being at least in part along winding, narrow and unlit rural lanes without dedicated footways (particularly during inclement weather or outside of daylight hours).

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

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

would also enhance and maintain the vitality of this rural community by supporting services in a nearby village, which can be accessed by public transport.

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

REASON FOR REFUSAL

1. The NPPF sets out that in order to achieve sustainable development, economic, social and environmental objectives/gains should be sought jointly and simultaneously. A new open market home in this location would entail some social and economic benefits. However, the Local Planning Authority considers that the environmental harm arising from the proposed development outweighs these benefits. In drawing this conclusion, the Local Planning Authority have considered the remote location of this site within a village without any recognised settlement limit and the environmental harm resulting from private vehicular use to access services and facilities. Therefore the proposed development is not in accordance with policies Mid Devon Core Strategy COR1, COR2, COR9, COR18 and Mid Devon Local Plan part 3 (Development Management Policies), DM1, DM2 or paragraphs 77 or 79 of the NPPF.

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. 19/00337/HOUSE

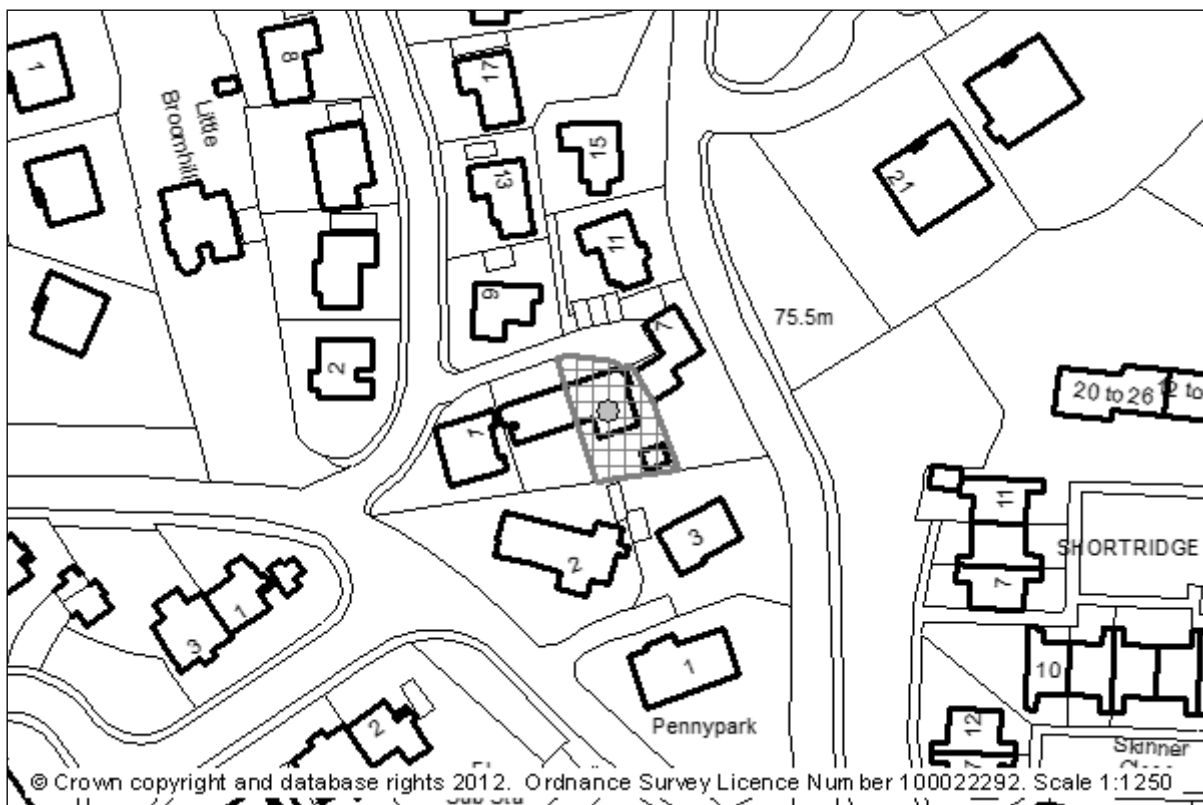
Grid Ref: 294724 : 112810

Applicant: Mr & Mrs Kearley

Location: 5 Broomhill
Tiverton
Devon
EX16 5AP

Proposal: Installation of a dormer window on front elevation to provide first floor accommodation and formation of a raised decking area to rear

Date Valid: 1st March 2019



APPLICATION NO: 19/00337/HOUSE

MEMBER CALL-IN

Not applicable, this application has been made by a member of staff and therefore must be determined by planning committee.

RECOMMENDATION

Grant permission subject to conditions

PROPOSED DEVELOPMENT

Installation of a dormer window on front elevation to provide first floor accommodation and formation of a raised decking area to rear.

APPLICANT'S SUPPORTING INFORMATION

Application form
Plans
Supporting statement

RELEVANT PLANNING HISTORY

97/01567/FULL - PERMIT date 9th December 1997
Construction of pitched roof to replace existing flat roof over extension on south facing elevation

OTHER HISTORY

None

INFORMATIVES

None

DEVELOPMENT PLAN POLICIES

Mid Devon Core Strategy (Local Plan 1)

COR13 - Tiverton

Mid Devon Local Plan Part 3 (Development Management Policies)

DM2 – High quality design
DM8 – Parking
DM13 – Residential extension and ancillary development

CONSULTATIONS

Tiverton Town Council – Support
Highway Authority – 8/3/19 – No Comments

REPRESENTATIONS

One letter of objection has been received in conjunction with this application and is summarised as follows:

1. No concerns regarding dormer to the front.
2. Have concerns about the decking area becoming a seating area, which would infringe on the privacy of the neighbouring garden.
3. Concerns about noise impacts of the proposal.
4. Would not object to steps between the house and garden with no decking.

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The main issues in the determination of this application are:

Policy and procedure:

The application site is located in the defined settlement of Tiverton where policy COR13 applies. The dwelling subject to this application is not listed, nor is it located within any designated landscape.

The key policy in the determination of this application is DM13. Policy DM13 deals with residential extensions and ancillary development, more specifically it supports this development subject to the following criteria;

- a) Respect the character, scale, setting and design of existing dwelling
- b) Will not result in an over development of the dwelling curtilage; and
- c) Will not have a significantly adverse impact on the living conditions of occupants of neighbouring properties.

In addition, policy DM2 also seeks to secure high quality design and policy DM8 requires the provision of sufficient parking to serve the dwelling.

Design:

The application scheme seeks to provide a flat roof dormer window on the front roof slope of the property to enable accommodation in the form of a third bedroom and bathroom at first floor level. The dormer window will be clad, with a bitumen roof. There are five roof lights proposed, three on the front north elevation, one on the west elevation and one on the south elevation; these will increase the natural light available in the property.

In addition to other internal alterations, it is proposed to construct a new raised decking area to the rear of the property, to allow access from the lounge and kitchen into the garden area, which isn't current possible due to the levels difference between ground floor level and the external space on this sloping site. The decking area will have a maximum width of 1.875 metres and a maximum height above ground level of 1.7 metres. The decking area will have timber railings and steps down to the garden.

Whilst the dormer window cannot be considered subservient to the existing bungalow as it will to some extent dominate the front roof slope; given the age, design and position of the bungalow which is set back from the highway, it is not considered that the design and position of the dormer is harmful to the extent that it warrants the refusal of this application. In addition, the works including the roof lights, window and door alterations and the raised decking area are considered to be acceptable. Overall, it is considered that the proposal sufficiently respects the character, scale, setting and design of the existing dwelling, in accordance with this element of DM13.

The proposal does not extend the footprint of the dwelling. It is considered that sufficient garden space would remain to serve the enlarged dwelling and the existing parking arrangements would remain unaltered. Overall the proposal is not considered to result in the over development of the dwelling curtilage in accordance with policy DM13.

Impact on neighbours:

One letter of objection has been received from the occupant of the neighbouring property to the east, raising concerns about loss of privacy and noise impacts of the proposal. The development is proposed in an existing residential area where there is a baseline level of overlooking due to the proximity and position of the properties, along with the topography of the immediate surroundings. However, it is recognised that the proposal if approved without conditions would result in the loss of privacy to the garden area of the neighbouring property to the east, as the raised decking area would provide a platform for additional views into this garden. In order to safeguard this, it is proposed to condition the provision of a 1.8 metre high privacy screen on the eastern side of the decking; the imposition of such a condition is considered sufficient to safeguard the privacy and amenity of the neighbouring property. It is not considered that the proposal would result in significant adverse impacts to the privacy and amenity of any other neighbouring properties due to the existing level of overlooking.

In relation to noise, residential development in a residential area is not considered to give rise to concerns relating to unacceptable levels of noise. Overall, there would not be any significant adverse impacts on the living conditions of occupants of the neighbouring properties subject to the conditions imposed, the proposal is considered to be in accordance with policy DM13 in this respect.

CONDITIONS

1. CD1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. CD7 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 first use of the decking area hereby approved, a 1.8 metre high opaque privacy screen, measured from the floor level of the decking area shall be provided on the eastern elevation of the decking area, for the entire length of the decking area. Once installed, the privacy screen shall be retained and maintained as such thereafter.
4. Prior to its installation, details of the finish, including colour, of the cladding to be use on the dormer window shall be submitted to and approved in writing by the Local Planning Authority. Such approved materials/details shall be so used and retained thereafter.

REASONS FOR CONDITIONS

1. RD1 In accordance with the provisions of Section 51 of the Planning and Compulsory Purchase Act 2004.
2. RD7a For the avoidance of doubt and in the interests of proper planning.
3. To safeguard the privacy and amenity of the neighbouring property to the east in accordance with policies DM2 and DM13.
4. To ensure the materials are appropriate to character and appearance of the area and to minimise the impact of the dormer window, in accordance with policies DM2 and DM13.

INFORMATIVES

None

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

The proposed development in terms of its scale, design and position are considered to be supportable in policy terms. The proposal is considered to adequately 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 subject to the conditions imposed. Overall the proposal is considered to sufficiently comply with the following policies; Mid Devon Core Strategy (Local Plan part 1) COR13 of the Local Plan part 3 (Development Management Policies) DM2, DM13 and Government advice in the National Planning Policy Framework.

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

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	0	03/07/2019	19/00384/MFUL	Change of use of land from Sui Generis to B8 Storage for the siting of 133 storage containers and 8 Portacabin offices, caravan/motorhome storage, erection of 2.4m high fencing, 3 4.00m high security cameras on steel posts and associated landscaping works	Quad World Bradninch Exeter Devon EX5 4LB	Mr Daniel Rance	DEL	
2	2	19/06/2019	19/00413/MOUT	Outline for the erection of up to 37 dwellings with associated vehicular and pedestrian access	Land at NGR 295599 122818 (North of Frog Street) Bampton Devon	Miss Lucy Hodgson	DEL	
3	3	11/06/2019	19/00075/MFUL	Erection of an agricultural educational/training facility to include demolition of farm buildings; erection of 5 buildings comprising of 20 residential apartments for service users; alterations to convert existing buildings to create classrooms and office suites; formation of an access track and overspill car park	Land and Buildings at NGR 286791 113761 (Kelly Farm) Nomansland Devon	Mr Adrian Devereaux	DEL	COMM
4	3	11/06/2019	19/00362/MFUL	Erection of 2 replacement chicken sheds (3075sqm)	Ladylands Farm Staple Cross Hockworthy Devon TA21 0NH	Mr Daniel Rance	DEL	DEL
5	4	05/06/2019	19/00210/MFUL	Demolition of buildings and erection of 18 dwellings and associated works, including vehicular access, garages, parking and landscaping	36 Post Hill Tiverton Devon EX16 4ND	Mrs Christie McCombe	DEL	COMM
6	5	31/05/2019	19/00364/MARM	Reserved Matters application, pursuant to Outline application 15/01332/MOUT, for employment development of up to 5,256m2 of B1, 2,651m2 of B2 and 4,919m2 of B8 units together with internal access roads, parking and associated infrastructure	Land at NGR 303681 111677 (North Of Mid Devon Business Park) Muxbeare Lane Willand Devon	Ms Naomi Morgan	DEL	DEL
7	10	24/04/2019	19/00118/MOUT	Outline for the erection of up to 105 dwellings, associated landscaping, public open space and allotments together with vehicle and pedestrian access from Siskin Chase and pedestrian access from Colebrooke Lane	Land at NGR 301216 106714 (West of Siskin Chase) Colebrooke Lane Cullompton Devon	Mrs Alison Fish	DEL	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>
8	12	10/04/2019	19/00038/MOUT	Outline for a mixed use development of approximately 40 dwellings, 600 sq. m. of B1 employment space, public open space, access, and associated works, following demolition of existing poultry sheds	Land and Buildings at NGR 314051 113316 (Culmbridge Farm) Culmbridge Road Hemyock Devon	Mrs Alison Fish	DEL	COMM
9	16	15/03/2019	18/02019/MOUT	Outline for the erection of up to 20 dwellings and associated access	Land at NGR 295508 103228 (Silverdale) Silverton Devon	Miss Lucy Hodgson	DEL	COMM
10	18	01/03/2019	18/01659/MFUL	Erection of a cow cubicle building (1054 sqm)	Land and Buildings at NGR 295161 114081 (Rix Farm) Bolham Devon	Miss Lucy Hodgson	DEL	DEL
11	18	01/03/2019	18/01666/MFUL	Erection of a poultry house (2) (1561sqm)	Land and Buildings at NGR 295161 114081 (Rix Farm) Bolham Devon	Miss Lucy Hodgson	DEL	DEL
12	18	01/03/2019	18/01668/MFUL	Erection of a poultry house (1) (1561sqm)	Land and Buildings at NGR 295161 114081 (Rix Farm) Bolham Devon	Miss Lucy Hodgson	DEL	DEL
13	18	26/02/2019	18/01935/MFUL	Erection of 2-storey GP Practice	Land at NGR 284429 99439 Joseph Locke Way Crediton Devon	Mr Adrian Devereaux	DEL	COMM
14	19	20/02/2019	18/01814/MFUL	Change of use of agricultural land for the siting of 6 holiday lodges and alterations to existing access	Land at NGR 299541 113262 Crown Hill Halberton Tiverton Devon	Mrs Alison Fish	DEL	COMM
15	20	12/02/2019	18/01634/MFUL	Erection of 19 dwellings (6 affordable)	Land at NGR 310020 113953 Linhay Close Culmstock Devon	Mrs Alison Fish	COMM	COMM
16	20	15/02/2019	18/01800/MFUL	Construction of an on-farm anaerobic digestion plant and associated infrastructure	Land at NGR 285024 100245 (East of Lords Meadow Industrial Estate) Crediton Devon	Mr Daniel Rance	DEL	COMM
17	25	08/01/2019	18/01711/MFUL	Formation of an open clamp (4630m2) for the storage of silage and provision of new access	Land and Buildings at NGR 288069 117081 (Gibbet Moor Farm) Rackenford Devon	Miss Hannah Cameron	DEL	COMM
18	32	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 Adrian Devereaux	DEL	

<i>Item</i>									<i>Expected Decision Level</i>	
<i>No.</i>	<i>Weeks</i>	<i>TARGET DATE</i>	<i>REFVAL</i>	<i>PROPOSAL</i>	<i>LOCATION</i>	<i>NAME</i>	<i>Delegated</i>	<i>Committee</i>		
19	38	09/10/2018	18/01091/MOUT	Outline for the erection of up to 10 dwellings including alterations to existing vehicular and pedestrian access	Land at NGR 300172 112650 West of Fishers Way Pethertons Halberton Devon	Mrs Alison Fish	DEL	DEL		
20	44	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 Adrian Devereaux	COMM	COMM		
21	48	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 Adrian Devereaux	DEL	DEL		
22	51	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 David Green	COMM	COMM		
23	51	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		
24	53	27/06/2018	18/00504/MOUT	Outline for the erection of 2 dwellings	Land at NGR 307538 116626 (North of Town Farm) Burlescombe Devon	Mr Adrian Devereaux	COMM	COMM		
25	53	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		
26	62	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		
27	65	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		

<i>Item</i>							<i>Expected Decision Level</i>	
<i>No.</i>	<i>Weeks</i>	<i>TARGET DATE</i>	<i>REFVAL</i>	<i>PROPOSAL</i>	<i>LOCATION</i>	<i>NAME</i>	<i>Delegated</i>	<i>Committee</i>
28	76	17/01/2018	17/01660/MOUT	Outline for the erection of 10 dwellings	Land at NGR 287219 106314 Barnshill Close Cheriton Fitzpaine Devon	Mr Adrian Devereaux	COMM	COMM
29	83	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
30	85	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
31	87	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
32	90	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
33	109	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 David Green	COMM	COMM
34	124	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
35	126	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 22nd March 2019 to 07th April 2019

Application No	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
18/00283/OUT	Outline for the erection of a dwelling and alterations to vehicular access	Jaspers Green Upplowman Tiverton Devon EX16 7DP	Refuse permission	Committee Decision	Refuse permission	Written Representations	Allow with Conditions

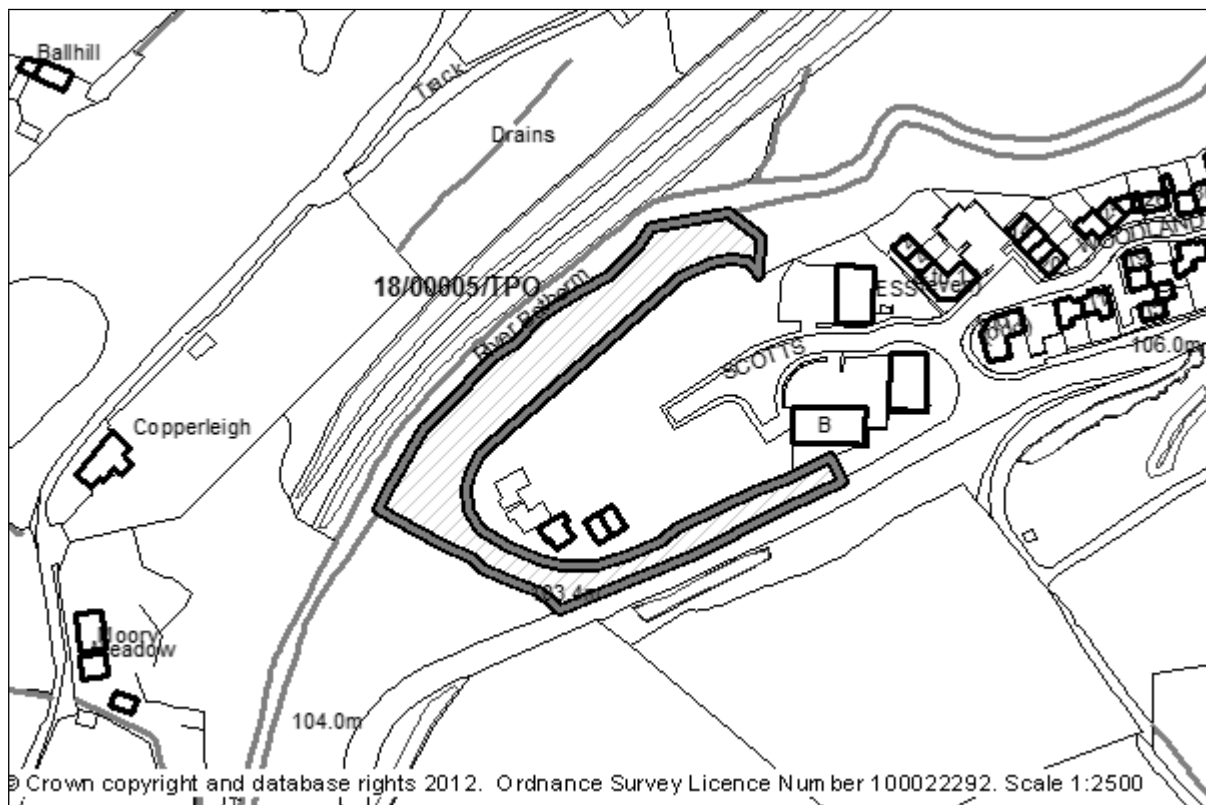
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Tree Preservation Order: 18/00005/TPO

Grid Ref: 295284 : 121659

Location: Land at NGR 295283 121659 (Scotts Business Park)
Bampton
Devon

Proposal: Tree Preservation Order for an area of woodland



TREE PRESERVATION ORDER: 18/00005/TPO

REPORT OF THE HEAD OF PLANNING AND REGENERATION

Reason for Report:

One objection raised by owner of the trees

RECOMMENDATION

The Tree Preservation Order 18/00005/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 an area of woodland

RELEVANT SITE HISTORY/DESCRIPTION:

15/00645/DCC - DCCREF date 28th July 2015

County Matter Application for importation of fill from an adjoining piece of land to improve the levels, drainage and improve general access to New Park, Tiverton Road, Bampton, EX16 9DX - DEVON COUNTY REFUSAL 28TH JULY 2015

18/00594/OUT - PCO date

Outline for the erection of 5 dwellings; parking/turning area; formation of new access and footpath connection to 'Scotts Quarry'

REPRESENTATIONS:

Letter of objection from landowner Fortbury Homes:

- 1) There are weak and fallen trees within the protected area
- 2) They feel MDDC has only made the Order because they are carrying out husbandry work
- 3) They will not be able to manage the area if the TPO is confirmed
- 4) Concerned about who will be responsible for any damage caused by the trees.

MATERIAL CONSIDERATIONS AND OBSERVATIONS

This Tree Preservation Order was made following concerns regarding the tree management at the site and in response to the development of the site.

The location is at the edge of Bampton and in a wooded area. The roadside trees screen development and the trees within the site offer a woodland setting for the development, in keeping with the area.

The Tree Preservation Order covers a range of woodland species and the woodland order should serve to ensure the trees are managed according to the nature of the site.

The trees have good amenity value from within the development and externally, enhancing and screening historic and more recent development. The woodland area of trees are considered to be worthy of consideration by Tree Preservation Order, using the TEMPO method of assessment.

MDDC response to the objections:

- 1) Unfortunately there is significant Ash dieback within the area and this has become apparent this summer. It is acceptable to remove any dead or dangerous trees without the need for formal application. Where possible MDDC ask for 5 days notification for our records. Trees which have significant Ash dieback but may still be slightly alive but when next to the Highway, are regarded as potentially dangerous and should be dealt with swiftly by the land owner. The Tree Preservation Order will serve to ensure that new trees are planted to replace the Ash. This does not have to be an expensive planting scheme but with Ash dieback the replacement of lost trees will be a consideration for all land owners.
- 2) There is no evidence of good tree husbandry at the site. The removal of trees to install the rainwater discharge for the development and create a track is not considered to be tree husbandry. The works however have been completed before the Tree Preservation Order was made so the order will have no impact on these plans.
- 3) A Tree Preservation should not cause all management to cease but it will ensure that management proposals are put forward and considered in line with good arboricultural practice.

4) The trees remain the responsibility of the landowner. If there is concern regarding the health and safety of trees this can be dealt with swiftly, despite the Tree Preservation Order.

SUMMARY:

The Tree Preservation Order should be confirmed to maintain the woodland feel to the site at this gateway location into Bampton. The trees have good amenity value from within the development and externally, enhancing and screening historic and more recent development. The retention of the trees would also have a positive impact on biodiversity in the area. A Tree Preservation should not cause all management to cease but it will ensure that management proposals are put forward and considered in line with good arboricultural practice.

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 23RD APRIL 2019

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

PLANNING PERFORMANCE AGAINST TARGETS QUARTER FOUR 1ST OCTOBER- 31ST DECEMBER 2018

REASON FOR REPORT:

To provide the Committee with information on the performance of aspects of the planning function of the Council for Quarter 4 of 18/19

MATTERS FOR CONSIDERATION:

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

RECOMMENDATION: For information and discussion.

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

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 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	60%	90%	82%	75%	71%	60%	100%
Minor applications determined within 8 weeks	65%	80%	85%	73%	72%	74%	73%
Other applications determined within 8 weeks	80%	89%	90%	87%	77%	88%	84%
Householder applications determined in 8 weeks	85%	98%	95%	78%	89%	94%	93%
Listed Building Consents determined in 8 weeks	80%	84%	84%	73%	50%	74%	65%
Enforcement site visits undertaken within 15 days of complaint receipt	87%	96%	92%	80%	85%	77%	80%
Delegated decisions	90%	94%	93%	86%	98%	95%	96%
No of applications over 13 weeks old without a decision	Less than 45 apps	29	44	68	75	68	88
Major applications determined within 13 weeks (over preceding 2 years)	More than 60%	82%	74%	86%	95%	77%	81%
Major applications overturned at appeal as % of all major decisions (over preceding 2 years)	Less than 10%	7%	4%	3%	3%	3%	3%
Non-major applications determined within 8 weeks (over preceding 2 years)	More than 70%	77%	79%	80%	79%	80%	79%
Non-major applications overturned at appeal as % of all non-major decisions over preceding 2 years	Less than 10%	<1%	<1%	0%	0%	0%	0%
Determine all applications within 26 weeks or with an extension of time (per annum –Government planning guarantee)	100%	100%	99%	100%	99%	99%	99%
Building Regulations Applications examined within 3 weeks	95%	88%	93%	95%	92%	87%	89%
Building Regulation Full Plan	95%	91%	96%	99%	97%	96%	97%

applications determined in 2 months							
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For all applications determined within 8 or 13 weeks, the performance figures include those where there has been an extension of time. This is in accordance with the methodology for reporting planning application determination set out by the Government.

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 **81%**.
- 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 all four quarters in Qu 18/19 indicate that the national planning performance indicators continue to be met and exceeded by the service in the majority of areas. 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. However the determination of heritage applications has been recorded as below the 80% target over all four quarters in 18/19. Listed Building Consent applications fall within the 'other' application category, the 80% target for which was met for the majority of 18/19. Nevertheless the lower heritage application performance is proposed to be the subject of attention to see if the efficiency of dealing with such applications can be improved.

2.3 The number of applications on hand that are over 13 weeks old continues to increase over consecutive quarters. This is attributed to vacant posts that have only recently been filled. A further vacancy will shortly arise, but recruitment to fill that post (one of the Principal Officers) is already underway. Nevertheless it is anticipated that the service will carry this as a vacancy for several months. The rising number of older applications on hand is an indicator of case worker pressure, as is the number of cases per officer at present. A range of measures are being investigated to seek to reduce this pressure.

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 In conclusion, performance in Development Management mainly exceeds Government requirements, however there are a few areas which require further attention.

3.0 PLANNING ENFORCEMENT.

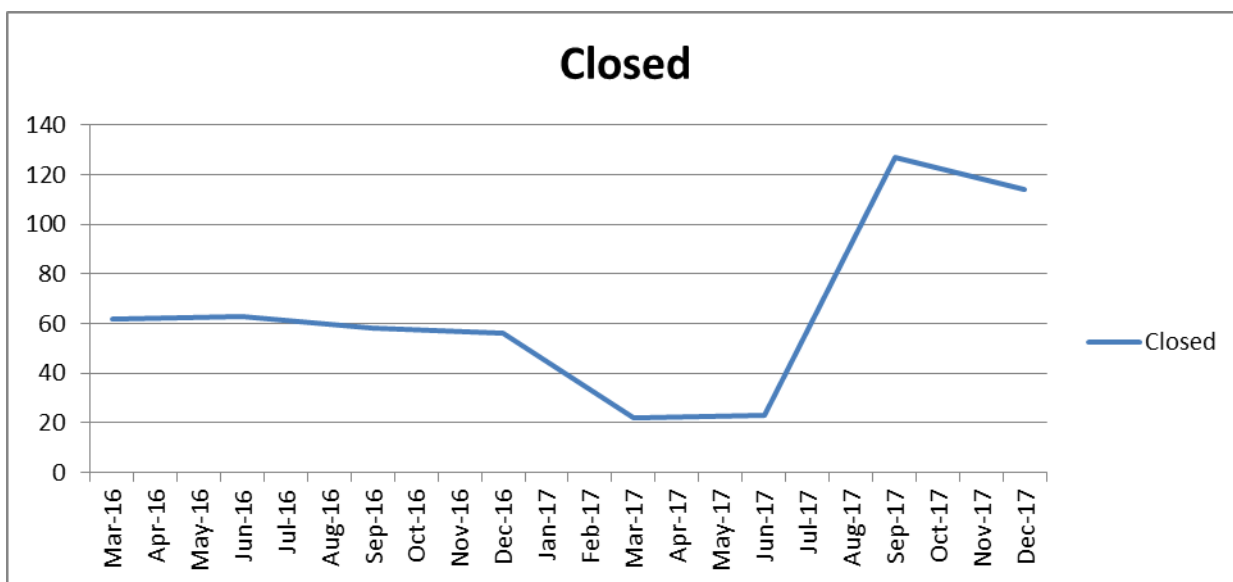
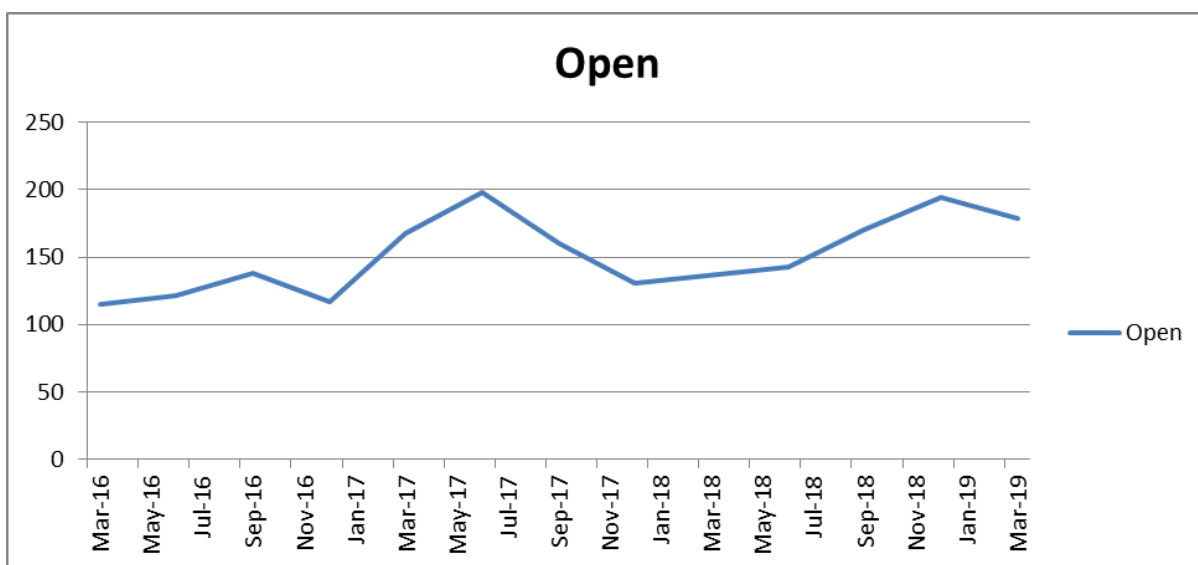
3.1 The Local Enforcement Plan was agreed by Council on 21st February 2018. It sets out prioritisation criteria for compliant investigation together with performance standards. These are now the performance standards being monitored and therefore this is the first quarterly performance report that reflects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

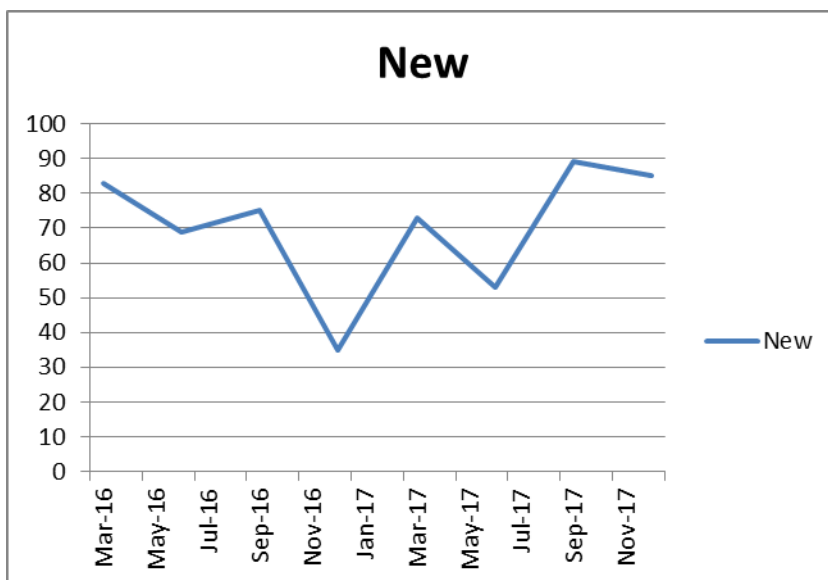
3.2 Activity within the enforcement part of the planning service by quarter for 18/19 is as follows:

Q ref	Details	Target	Q1	Q2	Q3	Q4
PE01	Register and acknowledge all written complaints. Indicator – within 3 working days	100%	98%	92%	90%	99%
PE02	Highest priority complaint investigation. Indicator - 90% of first site visits before the end of the next working day following registration.	90%	100%	100%	None reported	100%
PE03	High priority complaint investigation. Indicator - First site visit within 3 working days of registration.	100%	100%	100%	100%	100%
PE04	Medium priority complaint investigation. Indicator - First site visit within 10 working days of registration.	100%	94%	88%	100%	100%
PE05	Low priority complaint investigation. Indicator - First site visit within 15 working days of registration.	100%	97%	89%	76%	97%
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.	100%	92%	92%	91%	98%
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].	100%	92%	92%	98%	98%
PE08	New enforcement cases registered (See PE01)		93	104	111	118
PE09	Enforcement cases closed (in quarter)		71	77	96	133

PE10	Committee authorisations sought		1	1	1	1
PE11	Total Notices Served		10	3	2	3
	<i>Planning contravention notices served (PCN)</i>		5	2	0	3
	<i>Breach of condition notices served</i>		0	1	0	0
	<i>Section 215 notice (untidy land)</i>		0	0	0	0
	<i>Section 330 notice (requisition for information)</i>		4	0	0	0
PE12	Total outstanding cases at end of quarter				194	179

The following graphs show the number of enforcement cases opened, closed and new over a two year period.





An administration resource within the enforcement team now supports the two Enforcement Officers increasing the effectiveness of the service.

4.0 **BUILDING CONTROL.**

- 4.1 Building Control performance in the assessment of full plans applications was met for these quarters. Plan checking within 3 weeks in quarters 2, 3 and 4 was under target and reflected a fluctuation in staffing at that time. The Building Control team has recently achieved full 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 jointly operated with North Devon Council.

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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

REPORT OF THE HEAD OF PLANNING, ECONOMY AND REGENERATION

APPEAL DECISIONS AND PERFORMANCE 18/19

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

Reason for Report:

To provide information on the outcome of planning appeals for the financial year 18/19.

RECOMMENDATION: That the report be noted.

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

Financial Implications:

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

Legal Implications:

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

Risk Assessment:

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

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

- **Majors:** Applications determined over a 2 year period, no more than 10% of decisions to be overturned at appeal. The Mid Devon figure over the 2 year period ending March 2019 was 3%.

- Non-majors: Applications determined over a 2 year period, no more than 10% of decisions to be overturned at appeal. The Mid Devon figure over the 2 year period ending March 2019 was 0%.

Equality Impact Assessment:

No equality issues identified for this report.

1.0 APPEAL PERFORMANCE AND NATIONAL COMPARISON.

- 1.1 Attached at **Appendix 1** is a summary of planning appeals determined between 1st April 2018 – 31st March 2019. 22 appeals were determined within that period.

4	(18%)	Withdrawn
6	(27%)	Allowed
12	(55%)	Dismissed

- 1.2 The total number of appeals is down in comparison with the last few years. Planning Inspectorate statistics for the whole of the financial year 2018/19 are not yet available. Those issued to date (quarters 1, 2 and 3) of this financial year indicate the percentage of all planning application appeals allowed nationally (England) to be between 27% - 32%. The figure for all allowed appeals in Mid Devon over the whole of 2017/18 is at or slightly below the national average, being at 27%. However it is to be noted that the Mid Devon 55% dismissed appeal percentage for 18/19 this is down on the 66% recorded in 16/17.
- 1.3 Only 1 appeal decision between 1st April 2018 and 31st March 2019 related to a major application. It was dismissed.

2.0 ALLOWED APPEALS.

- 2.1 Of the 6 appeals allowed, 4 were decided under delegated powers. The remaining 2 were determined by Planning Committee in accordance with officer recommendation:

17/00557/FULL Erection of a temporary agricultural worker's caravan, Land at NGR 283175 113696, (Menchine Farm), Nomansland.

18/00283/OUT Outline for the erection of a dwelling and alterations to vehicular access, Jaspers Green Upplowman, Tiverton Devon EX16 7DP.

3.0 DISMISSED APPEALS.

- 3.1 Of the 12 dismissed appeals, 3 were determined or considered by Planning Committee:

17/00033/OUT Outline for the erection of 8 dwellings, Land and Buildings at NGR301416 115145, Crosses Farm, Upplowman. Refused in accordance with recommendation.

17/00652/MOUT Outline for a mixed development of 30 dwellings, commercial buildings, access, public open space, landscaping, and associated works, Land at NGR 303116 110179 (NE of Rydon House), Willand. Refused contrary to recommendation.

17/00854/OUT Outline for the erection of a dwelling, Land at NGR 306965 114496 (2 Appledore Court), Burlescombe. Refused in accordance with recommendation.

3.2 9 were considered by officers under delegated powers.

4.0 COMPARISON WITH PREVIOUS PERIODS.

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

2009 37 appeals, 23 (62%) dismissed.
2010 28 appeals, 22 (78%) dismissed.
2011 37 appeals, 22 (60%) dismissed
2012 33 appeals, 16 (48.5%) dismissed
2013 37 appeals, 20 (54%) dismissed
2014 42 appeals, 27 (64%) dismissed
15/16 34 appeals, 24 (71%) dismissed
16/17 32 appeals, 25 (78%) dismissed
17/18 29 appeals, 19 (66%) dismissed
18/19 22 appeals, 12 (55%) dismissed

5.0 GOVERNMENT TARGETS FOR APPEAL PERFORMANCE.

5.1 The performance of each authority in terms of speed and quality of decision making is monitored. The measure now used to assess the quality of decision making is the average percentage of decisions on applications for all major and non-major development that have been overturned on appeal. The threshold applied by the Government for inadequate performance by a Local Planning Authority in the quality of decision making is if more than 10% of all application decisions made over the previous two years have been overturned at appeal. This is divided into major and non-major categories. The Government's assessment is over a 2 year period. Over the previous two year period the Council's performance against this measure has met the Government's requirements.

5.2 For Members information where a Local Planning Authority is designated as underperforming it is required to produce an action plan to address areas of weakness. Designation also grants applicants for major development a choice over whom to submit their application to. It introduces the ability to apply for

planning permission directly to the Planning Inspectorate as an alternative to applying to the Local Planning Authority. Application assessment and decision making is therefore removed from the local level. In these circumstances the Local Planning Authority does not receive an application fee, but is still responsible for certain administration functions associated with the applications.

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- Circulation of the Report:** Cllr Richard Chesterton
Members of Planning Committee
- List of Background Papers:** Planning Committee agendas and minutes 2017/18.
DCLG Improving planning performance – Criteria for designation November 2016
DCLG Planning performance and the planning guarantee –Government response to consultation. June 2013
DCLG Technical consultation on implementation of planning changes February 2016
Growth and Infrastructure Act 2013
Planning Inspectorate Statistical Report: England 2018/19, Quarters 1, 2 and 3

List of Appeal Decisions from 01/04/2018 to 31/03/2019

Application No.	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
16/00246/UDRU	Change of use of land from agriculture to mixed use agriculture and the siting of a caravan for human habitation	West Loosemoor Farm Oakford Tiverton Devon EX16 9JE		Delegated		Enf Written Reps	Appeal Withdrawn
17/01279/FULL	Removal of condition 2 of planning permission 09/01028/FULL pertaining to removal of agricultural building within 3 years of cessation of use - APPEAL ALLOWED - PLANNING PERMISSION GRANTED 20.04.18	Land at NGR 306745 119854 (North of Wardmoor) Holcombe Rogus Devon	Grant permission subject to conditions.	Delegated	Refuse permission	Written Representations	Appeal Allowed
17/00444/FULL	Change of use of and conversion of ancillary storage building to residential dwelling - APPEAL ALLOWED - PLANNING PERMISSION GRANTED 20.04.18	Building at NGR 277983 95085 (Medland Manor Cottage) Cheriton Bishop Devon	Refuse permission	Delegated	Refuse permission	Written Representations	Appeal Allowed
17/00033/OUT	Outline for the erection of 8 dwellings (APPEAL DISMISSED 04.05.18)	Land and Buildings at NGR 301416 115145 Crosses Farm Upplowman Devon	Refuse permission	Accepted	Refuse permission	Written Representations	Appeal Dismissed

Application No.	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
17/00557/FULL	Erection of a temporary agricultural worker's caravan - APPEAL ALLOWED 9/5/18 - PLANNING PERMISSION GRANTED 9/5/18	Land at NGR 283175 113696 (Menchine Farm) Nomansland Devon	Refuse permission	Accepted	Refuse permission	Informal Hearing	Appeal Allowed
17/01175/HOUS	Formation of access and provision of hardstanding for the parking of vehicles (APPEAL DISMISSED 16.05.18)	22 & 24 Hele Road Bradninch Exeter EX5 4QX	Refuse permission	Delegated	Refuse permission	Written Representations	Appeal Dismissed
17/01727/LBC	Listed Building Consent for the replacement of 5 windows and one French door (APPEAL DISMISSED 18.06.18)	Lowerfield House Lapford Crediton Devon EX17 6PU	Refuse permission	Delegated	Refuse permission	Written Representations	Appeal Dismissed
17/01476/FULL	Removal of condition (g) of planning permission 87/00530/OUT relating to agricultural tie APPEAL DISMISSED 10/08/18	Venbridge Farm Cheriton Bishop Exeter EX6 6HD	Refuse permission	Delegated	Refuse permission	Informal Hearing	Appeal Dismissed
17/01504/FULL	Erection of a dwelling and construction of new vehicular access following demolition of skittle alley, garage and store	Land and Buildings at Mare & Foal The Village Yeoford Crediton Devon EX17 5JD	Refuse permission	Accepted	Refuse permission	Written Representations	Application Withdrawn

Application No.	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
17/00652/MOUT	Outline for a mixed development of 30 dwellings, commercial buildings, access, public open space, landscaping, and associated works - APPEAL DISMISSED 24/08/18	Land at NGR 303116 110179 (NE of Rydon House) Willand Devon	Subject to the provision of a S106 Com	Overtured	Refuse permission	Written Representations	Appeal Dismissed
17/00652/MOUT	Outline for a mixed development of 30 dwellings, commercial buildings, access, public open space, landscaping, and associated works - APPEAL DISMISSED 24/08/18	Land at NGR 303116 110179 (NE of Rydon House) Willand Devon	Subject to the provision of a S106 Com	Overtured	Refuse permission	Written Representations	Appeal Dismissed
17/01625/PNCO	Prior notification for the change of use of agricultural building to dwelling under Class Q - Appeal Dismissed 30/08/18	Land and Buildings at NGR 276109 103625 (Adjacent to Eppfield) Copplestone Devon	Not Permitted Development	Delegated	Not Permitted Development	Written Representations	Appeal Dismissed
17/01311/PNCO	Prior notification for the change of use of agricultural building to dwelling under Class Q - Appeal Dismissed 31/08/18	Land at NGR 275264 93578 (Southcombe Cross Barn) Cheriton Bishop Devon	Not Permitted Development	Delegated	Not Permitted Development	Written Representations	Appeal Dismissed

Application No.	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
17/01857/CLU	Certificate of lawfulness for the existing use of a storage container as farm office, workshop and rest room	Green Acres Farm Coldridge Crediton Devon EX17 6BW	Refuse Certificate of Lawful Use	Delegated	Refuse permission	Written Representations	Application Withdrawn
17/00854/OUT	Outline for the erection of a dwelling - APPEAL DISMISSED 24/09/2018	Land at NGR 306965 114496 (2 Appledore Court) Burlescombe Devon	Refuse permission	Accepted	Refuse permission	Written Representations	Appeal Dismissed
17/01411/FULL	Retention of slurry lagoon APPEAL WITHDRAWN 25/9/18	Land at NGR 276429 99746 (Adjacent to Mardles Gate) Colebrooke Devon	Grant permission subject to conditions.	Overturned	Refuse permission	Written Representations	Appeal Withdrawn
17/00848/FULL	Change of use of agricultural building to pottery manufacturing place (Class B2) - APPEAL ALLOWED - PLANNING PERMISSION VARIED 29/10/18	Dunsmore Silverton Exeter Devon EX5 4DU	Grant permission subject to conditions.	Delegated	Grant permission	Written Representations	Appeal Allowed

Application No.	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
17/01875/OUT	Outline hybrid application for the erection of a dwelling and alteration to vehicular access; and change of use of agricultural barn to ancillary residential building - APPEAL DISMISSED 30/10/18	Frogs End Frog Street Bampton Tiverton Devon EX16 9NT	Refuse permission	Delegated	Refuse permission	Written Representations	Appeal Dismissed
18/00348/ADVER	Advertisement consent for the display of an externally illuminated sign - Appeal Allowed 20-11-18	Marshall's Fish Bar 37 High Street Cullompton Devon EX15 1AF	Refuse Advertisement Consent	Delegated	Refuse permission	Commercial Appeal	Appeal Allowed
17/00160/COU	Caravan sited on agricultural land being used for human habitation. Motor vehicles stored on site. APPEAL DISMISSED 16/01/19	NGR 300441 125017 Land Lying to The North of Petton Cross Shillingford Tiverton Devon		Delegated		Written Representations	Appeal Dismissed
18/00027/OUT	Outline for the erection of a bungalow with access - Appeal Dismissed 16/01/19	Little Chace Upplowman Tiverton Devon EX16 7DW	Refuse permission	Delegated	Refuse permission	Written Representations	Appeal Dismissed

Application No.	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
18/00938/PNCO	Prior Notification for the change of use from storage building (Class B8) to dwelling (Class C3) under Class P - APPEAL DISMISSED 20.03.2019	Land and Buildings at NGR 309178 117586 (Henegar Farm) Red Ball Devon	Not Permitted Development	Delegated	Not Permitted Development	Written Representations	Appeal Dismissed
18/00283/OUT	Outline for the erection of a dwelling and alterations to vehicular access APPEAL ALLOWED - PLANNING PERMISSION GRANTED WITH CONDITIONS 27/03/19	Jaspers Green Upplowman Tiverton Devon EX16 7DP	Refuse permission	Varied	Refuse permission	Written Representations	Allow with Conditions

REPORT OF THE HEAD OF PLANNING, ECONOMY AND REGENERATION

COMMITTEE DECISIONS 2018/19 WHICH WERE NOT IN AGREEMENT WITH OFFICER RECOMMENDATION.

Cabinet Holder Cllr Richard Chesterton
Responsible Officer Mrs Jenny Clifford, Head of Planning, Economy and Regeneration

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

RECOMMENDATION: That the report be noted.

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

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

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

Risk Assessment: Risks associated with decisions proposing to refuse planning permission contrary to officer recommendation are set out in an implications report that is brought before Planning Committee before the final decision is made. However, at present no such implications report system is in place where Committee wish to grant planning permission contrary to officer recommendation. Local Planning Authority decision making by both officers under delegated authority and by Planning Committee irrespective of whether permission is refused or granted must be robust, justified and capable of being defended at appeal. There is a right of appeal against the imposition of conditions.

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

- 1.0 Attached at **Appendix 1** is a summary of applications where the Planning Committee have made decisions not in agreement with officer recommendations. The report covers the period from 1st April 2018 until 31st March 2019. (Please note that one of the applications appears twice on the attached list).
- 2.0 The number of cases during the 18/19 financial year was 7. Comparison with the figures for previous years is as follows:

2009	2010	2011	2012	2013	2014	2015/16	2016/17	2017/18	2018/19
8	10	6	11	12	3	7	11	8	7

3 were granted planning permission with conditions and 4 were refused permission contrary to officer recommendation.

- 3.0 In accordance with the agreed protocol, cases where Members wish to refuse permission contrary to an Officer recommendation for approval requires a deferral of the item for the receipt of a report setting out the implications of the proposed decision and the reasons given with Members indicating the decision that they are minded to make. Since April 2016, if Members wish to approve contrary to an officer recommendation to refuse permission, the protocol does not require that the item be deferred. However Members will need to give clear reasons for granting permission taking into account the requirement for the determination of planning applications to be in accordance with the development plan unless any other material planning considerations indicate otherwise. 3 such overturned cases were recorded in the last financial year.

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Background Papers	Planning Committee agendas and minutes 2017 - 2018
File Reference	None.
Circulation of the Report	Members of Planning Committee, Cllr Richard Chesterton.

Decision Against Officer Recommendation from 01/04/2018

Date of Planning Committee	Application No.	Description	Location	HOP Recom'd	Planning Committee Decision	Member Call-in	Appeal Status
16/05/2018	17/01411/FULL	Retention of slurry lagoon APPEAL WITHDRAWN 25/9/18	Land at NGR 276429 99746 (Adjacent to Mardles Gate) Colebrooke Devon	Grant permission subject to conditions.	Refuse permission		Withdrawn
13/06/2018	18/00062/HOU	Erection of a two storey extension	18 Great Close Culmstock Cullompton Devon EX15 3HQ	Refuse permission	Grant permission		
11/07/2018	17/01716/FULL	Widening of the existing access to agricultural land	Land at NGR 292482 101905 School Lane Thorverton Devon	Grant permission subject to conditions.	Refuse permission		
11/07/2018	17/01716/FULL	Widening of the existing access to agricultural land	Land at NGR 292482 101905 School Lane Thorverton Devon	Grant permission subject to conditions.	Refuse permission		
03/08/2018	18/00175/MOU	Outline for the erection of upto 125 dwellings with public open space and associated infrastructure	Land at NGR 303288 110467 Adj Meadow Park Silver Street Willand Devon	Subject to the provision of a S106 Com	Refuse permission		
03/10/2018	18/00745/FULL	Erection of dwelling following demolition of existing shed	Land and Buildings at NGR 295495 115092 (Adjacent to Lurley Cottage) Lurley Devon	Refuse permission	Permitted with Conditions to Discharge		
06/02/2019	18/01467/LBC	Listed Building Consent for the replacement of 11 windows with new hardwood timber windows	Wistaria House Fore Street Morchard Bishop Crediton Devon EX17 6NX	Refuse Listed Building Consent	Permitted with Conditions to Discharge		
06/02/2019	18/01598/FULL	Erection of a self supporting tree house, replacement of existing summerhouse with cabin on stilts and change of use of existing shed site/adjoining garden for the siting of one cabin all for holiday use	Land at NGR 295315 124977 (Whitehall Farm) Morebath Devon	Grant permission subject to conditions.	Refuse permission		

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