

**Application No. 17/01509/MFUL**

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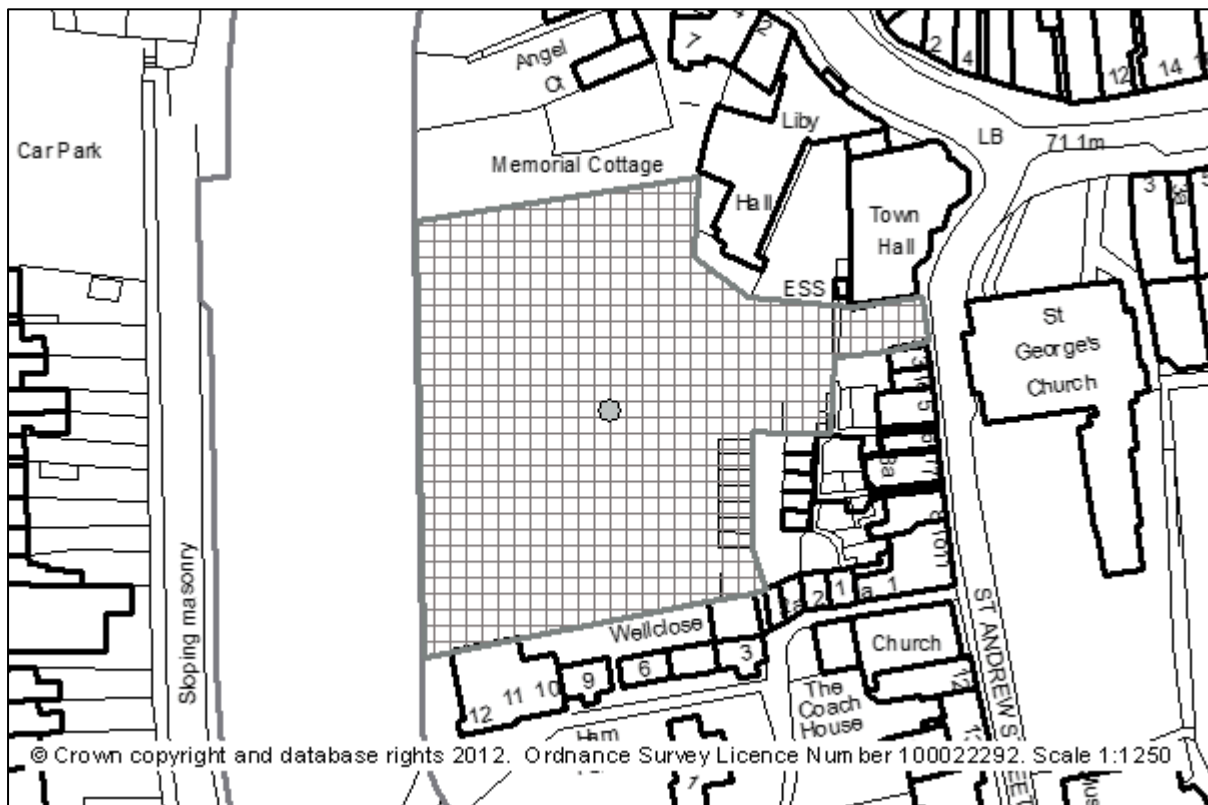
Grid Ref: 295350:112455

Applicant: Mr N Sanderson

Location: Land and buildings at NGR 295350 112455  
Rear of Town Hall  
Angel Hill  
Tiverton  
Devon

Proposal: Erection of 39 dwellings following demolition of existing garages and adjacent substructure, together with bike storage, underground car parking, landscaping and associated works

Date Valid: 12th September 2017



**AGENDA ITEM**

**PLANNING COMMITTEE  
29th November 2017**

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

**17/01509/MFUL – ERECTION OF 39 DWELLINGS FOLLOWING DEMOLITION OF EXISTING GARAGES AND ADJACENT SUBSTRUCTURE, TOGETHER WITH BIKE STORAGE, UNDERGROUND CAR PARKING, LANDSCAPING AND ASSOCIATED WORKS – LAND AND BUILDINGS AT NGR 295350 112455 (REAR OF TOWN HALL) ANGEL HILL TIVERTON DEVON**

**Reason for Report**

This planning committee have requested that this application be determined by members of the committee.

**RECOMMENDATION(S)**

Planning Permission granted subject to conditions as set out in this report.

**Relationship to Corporate Plan**

Managing the environment

**Financial Implications**

Should the application be refused and appeal submitted to the Planning Inspectorate there is a risk of an award of costs against the Local Planning Authority if it were found to have behaved unreasonably.

**Legal Implications**

The refusal of the application, or failing to comply with the planning conditions imposed on any grant of planning permission would result in Enforcement action being undertaken.

**Risk Assessment**

None identified.

**Consultations carried out with**

1. Highway Authority
2. Environment Agency
3. Tiverton Town Council
4. Historic Environment Service
5. Historic England
5. Devon, Cornwall and Dorset Police
6. Environmental Health
7. Lead Local Flood Authority
8. Natural England
9. Tree Officer
10. Devon County Education
11. South West Water
12. RSPB

## **Representations received**

3 letters of objection have been received. The issues raised are summarised below:

- The vehicular access from St Andrews Street is dangerous and vehicles using the access would have to cross a pavement creating a risk to pedestrians or other road users;
- No need for housing on the site as other sites for housing in the district;
- Buildings are overbearing and high density;
- The design is based on economics not on architecture or benefits to the town;
- The tallest buildings on the site overpowers the area when viewed from across the river and looks like a ridge of tombstones, it is imposing;
- Uninspiring, mediocre architecture;
- Very little planting in the scheme, mostly concrete and brickwork;
- View toward the town and town hall will be destroyed;
- The site is at high probability of flooding;
- An integrated garden renaissance plan for the site would be better for the town;
- Concerns regarding access for emergency vehicles;
- Difficult access to existing properties;
- Concerns regarding refuse collection;
- Impact on existing and old drainage system;
- Lack of car parking in the area;
- Access to existing residential properties needs to be retained/maintained.

## **Applicants Supporting Information**

Application form

Plans

## **Proposed development**

This is a full planning application for the redevelopment of the land to the rear of Angel Hill, the Town Hall and part of St Andrews Street. The site is 0.42 ha in size and is bounded on its western side by the River Exe. The site is predominantly on two levels. The highest part is towards the eastern side and is currently occupied by existing parking and garage buildings to the rear of St Andrews Street. The lower part of the site lies further to the west and fronts onto the river and in the past has been cleared. It is now overgrown and was last used as tennis courts. The site is located in Tiverton Town Centre, the Conservation Area and is located close to listed buildings including those in St Andrews Street, The Town Hall, The Royal British Legion building at Angel Hill and St George's Church.

The application seeks permission for 39 dwellings comprising 28 apartments and 11 houses. Planning permission has previously been granted for 44/45 new build units on the site under an earlier schemes 14/01847/Full and 13/00298/MFUL. The applicant site excludes the properties in St Andrews Street / Ham Place that have recently undergone renovation under separate permissions. The Council is the landowner of these properties and they are now occupied as 14 affordable dwellings. These 14 units do not form part of the current planning application.

The current proposal seeks to:

1. Erect 11 dwellings (9 x 2 bed dwellings and 2 x 3 bed dwellings) and 28 apartments (16 x 1 bed apartments and 12 x 2 bed apartments). The dwellings are proposed to be two storey and the apartments arranged within 2 blocks equating to 4 buildings, two of which are 3 storeys and 2 of which are 4 storeys. The apartment buildings are connected by first and second storey links.

2. An area of public open space with seating and landscaping adjacent to the wall with the River Exe alongside the western boundary of the site.
3. Access is to be gained from St Andrews Street through the demolition of numbers 1 and 2. This demolition work has already taken place. This access will link to the above ground parking spaces at the higher level of the site and to the lower ground floor parking area beneath the apartments. There is one space per unit within the application site. There are 4 loading spaces within the development.
4. There are lifts and stairs provided from the lower ground floor parking into the apartment buildings.
5. The main entrance to the apartment buildings is from the eastern elevation.
6. The dwellings form three terraces of three dwellings (gable end facing toward the River Exe) with a pair of semi detached dwellings in the north western corner of the site.

The site is allocated for development within the Allocations and Infrastructure Development Plan Document AL/TIV/12. This allocation covers 0.5ha and incorporates buildings in St Andrews Street and Ham Place that are not part of this current proposal. The policy refers to:

- 55 dwellings incorporating conversion of buildings adjoining St Andrew St, including 35% affordable housing.
- Design protecting the character of the adjoining Listed Buildings and enhances the setting of the River Exe.
- Archaeological investigation and appropriate mitigation.
- Ground floors to be raised and provision of flood evacuation / access routes.
- Provision of sustainable urban drainage scheme and arrangements for future maintenance.

The principle of the development of this site for housing is well established by the relevant planning policies and by the previous grants of planning permission for the residential development of the site.

### **Applicants supporting information**

Design and access statement.

Construction, design and management report.

Archaeological report.

Landscaping statement.

Preliminary ecological appraisal and ecological appraisal update.

Site investigation report.

Assessment of arboricultural constraints.

Flood risk assessment.

Viability statement.

### **Planning History**

**77/01015/FULL** - PERMIT date 16th September 1977

Certificate of Alternative Development for:

- (a) Car park and access road
- (b) Public open space
- (c) Town Hall Extension
- (d) Residential

**87/01799/FULL** - DEMCON date 12th November 1987

DEEMED CONSENT for the erection of prefabricated building for office purposes

**90/00065/OUT** - PERMIT date 3rd July 1990

Outline for the erection of offices and parking and construction of new and alteration to existing vehicular access

**93/00348/FULL** - PERMIT date 16th April 1993

Renewal of temporary permission 4/52/87/1799 for prefabricated office building

**96/00520/FULL** - PERMIT date 10th June 1996

Retention of temporary prefabricated office building (previously approved under reference number 4/52/93/348/R)

**99/02595/FULL** - PERMIT date 23rd July 1999

Retention of temporary prefabricated office building (previously approved under ref 4/52/96/520)

**04/02120/CAC** - PERMIT date 11th January 2005

Conservation Area Consent for the demolition of a derelict pavillion

**08/00639/MFUL** - PERMIT date 12th June 2009

Erection of 46 dwellings and cafe with associated carparking following demolition of 1 and 2 St Andrew Street, conversion of 3-10 St Andrew Street and 1, 2 Ham Place into 10 dwellings

**08/00641/CAC** - PERMIT date 13th August 2008

Conservation Area Consent for demolition of 1 and 2 St Andrew Street and garages, sheds, buildings and north/south retaining wall on land to rear

**12/00745/MFUL** - PERMIT date 1st November 2012

Application to replace extant planning permission 08/00639/MFUL (to extend time limit)

Erection of 46 dwellings and cafe with associated carparking following demolition of 1 and 2 St Andrew Street, conversion of 3-10 St Andrew Street and 1, 2 Ham Place into 10 dwellings

**12/00755/LBC** - PERMIT date 11th December 2012

Listed Building Consent for internal and external alterations - PERMISSION ALLOWED BY NATIONAL PLANNING CASEWORK UNIT - 11TH DECEMBER 2012

**12/00756/CAC** - PERMIT date 11th December 2012

Conservation Area Consent for demolition of 1 and 2 St Andrew Street and garages, sheds, buildings and north/south retaining wall on land to rear - PERMISSION ALLOWED BY NATIONAL PLANNING CASEWORK UNIT - 11TH DECEMBER 2012

**13/00298/MFUL** - PERMIT date 21st August 2013

Erection of 45 apartments for older persons, including communal facilities, associated car parking and landscaping, following demolition of 1 & 2 St Andrew Street

**13/01600/LBC** - PERMIT date 1st April 2014

Listed Building Consent for internal and external alterations

**13/01601/MFUL** - PERMIT date 6th March 2014

Conversion of 3-11 St Andrew Street and 1-2 Ham Place into 14 dwellings - NON

MATERIAL AMENDMENT GRANTED 24th April 2015

2ND NON-MATERIAL AMENDMENT GRANTED 18.06.2015

**13/01601/MFUL/NMA** - PERMIT date 24th April 2015

Non-Material Amendment for the alteration of windows - conversion of 3-11 St Andrew Street and 1-2 Ham Place into 14 dwellings

2ND NON-MATERIAL AMENDMENT GRANTED 18.06.2015

**13/01601/MFUL/NMAA** - PERMIT date 18th June 2015

Conversion of 3-11 St Andrew Street and 1-2 Ham Place into 14 dwellings - Non-Material Amendment to allow provision of render to walls on unit 10 and 14 in place of the existing uPVC cladding; provision of composite doors to non-listed units; retention of the small existing blockwork extension to the rear of units 9 and 10 with this being provided with a rendered finish; handing of the bedroom & lounge to Unit 9

**13/01601/MFUL/NMAB** - DELETE date 8th June 2015

Conversion of 3-11 St Andrew Street and 1-2 Ham Place into 14 dwellings (DELETED - SET UP IN ERROR)

**14/01313/FULL** - DELETE date 23rd September 2014

Variation of condition (2) of planning permission 13/00298/MFUL to allow the substitution of previously approved plans

**14/01847/MFUL** - PERMIT date 24th March 2015

Erection of 44 apartments for older persons, including communal facilities, associated car parking including construction of parking deck and landscaping (Revised Scheme)

**15/00733/FULL** - WDN date 13th November 2015

Variation of condition 13 (1) of planning permission 14/01847/MFUL to allow highway works to be submitted and provided prior to occupation rather than prior to implementation

## **OTHER HISTORY**

**12/01465/PREAPP** - CLO date 1st November 2012

PROTECT - Redevelopment to form 45 retirement apartments for older persons with associated car parking

**17/01028/PREAPP** - CLO date 15th September 2017

PROTECT: Proposed residential development

## **CONSULTATIONS**

**ENVIRONMENT AGENCY** - 17th November 2017

We advise that the proposed development demonstrates that it would meet the second part of the Exception Test subject to the inclusion of conditions on the grant of planning permission to ensure the provision of access through the development to the flood defence wall, the provision of an access strip along the length of the flood defence wall and flood signs in the below ground car park. Our advice in respect of flood risk and suggested conditions are provided below.

Reasons

The application site is located within Flood Zone 3 located adjacent to, and behind, the flood defence wall. We have a significant amount of data/modelling on the performance of the River Exe flood defence scheme at this location and we are confident that during a design flood event, with consideration of climate change, the flows stay within the bank. The layout proposed is sympathetic to the issue of flood risk posed by the River Exe, and possible risk from the River Lowman in extreme circumstances. Version 2 of the FRA identifies that the proposed finished floor levels of the residential units, walkway levels, and presence of defences, are such that the residential units would be sufficiently elevated above the design flood level and would remain dry, furthermore access and egress from, and to, high ground would be available. We advise that the lower parts of the car parking area would be up to 900mm below the theoretical 1% annual probability (plus 85% flow) flood level in an absolute worst case scenario. Whilst the defence wall, and threshold level of the car park entrance, should in theory preclude water we've assumed an absolute worst case scenario of waters backing up surface water drainage etc. We consider it necessary to include a condition on the planning permission to ensure flood signs are placed within the car park warning of the potential for flooding in extreme circumstances.

Condition: flood signs

Prior to occupation of the development hereby approved flood signs shall be erected in the below ground car park warning users of the potential for flooding in extreme circumstances.

Reason: To reduce the risk of flooding.

Advice to LPA- access route to flood defence wall

At this location we will require access through the development by small plant for the purpose of facilitating maintenance/repairs. We consider the narrow access strip in the southwest corner, as shown on the G Site Plan drawing ref. (00) 002 rev P0, through to the 8m exclusion zone is of sufficient width. We consider it is necessary for a condition to be included on the planning permission to secure this access route in perpetuity. Our suggested wording is as follows.

Condition: The area outlined in red and labelled as 'access route to EA flood defence' on G Site Plan drawing ref. (00) 002 rev P0, shall remain undeveloped and free of obstruction in perpetuity.

Reason: To ensure access for the Environment Agency to the River Exe Flood Defence wall on the site boundary for the purposes of inspecting, maintaining, repairing and construction of existing and new flood risk management works.

#### Advice to LPA - 8 metre exclusion zone

We welcome the provision of an 8m exclusion zone between the flood defence wall and the built development as shown on drawing G Site Plan drawing ref. (00) 002 rev P0 . Within this zone we require a 4m wide unobstructed corridor along the rear of the defence which is free of planting and any structures. We note from the Hardworks drawing L/S/002/17156/PH02 revPL02 and Planting drawing L/S/003/17156/PP03 revPL02 that planting and structures are proposed within 4m of the flood defence wall which we consider isn't appropriate because this would hinder asset inspection and any required maintenance/ improvement work. The layout of the garden landscaping and furniture must not compromise these activities and we advise that these are changed with the final details secured via planning condition.

Condition: planting and external hard-works 8m exclusion zone A scheme for planting and external hard-works within the 8m exclusion zone shall be submitted to and agreed in writing by the LPA. The scheme shall be implemented in accordance with the approved details.

Reason: To ensure the provision of unobstructed access to the River Exe Flood defence wall on the site boundary.

#### Advice to LPA– Flood risk sequential and exception tests

The application site is located within Flood Zone 3. In accordance with the National Planning Policy Framework (NPPF) paragraph 101, development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding. It is for the local planning authority to determine if the Sequential Test has to be applied and whether or not there are other sites available at lower flood risk as required by the Sequential Test in the NPPF. If your Council are content that the Sequential Test can be satisfied, consistent with wider sustainability objectives, the Exception Test would then need to be applied and passed. Your Authority will need to consider the first part, in respect of whether the development offers any wider sustainability benefits to the community that outweigh flood risk. Our comments on the proposal relate to the second part of the Exception Test that demonstrates the development is safe. The NPPF is explicit that both parts of the exception test must be passed for development to be permitted.

Advice to applicant – foundation design It is paramount that the western blocks of properties are built on piled foundations such that their structural integrity would not be dependent upon the presence of the existing flood defence wall. This is because it is possible that at some point in the future the flood defence wall would need extensive repairs/replacement.

Advice to applicant - Flood Risk Activity Environmental Permit The contractor who undertakes works within 8m of the adjacent flood defence wall, e.g. piling works, must obtain a Flood Risk Activity Environmental Permit from the Environment Agency prior to works commencing. This is a statutory requirement separate to obtaining planning permission. At this location the toe of the existing flood defence wall sits within 8m of the proposed structure. The aim of the permit will be to ensure that we can have an element of control over how the works are carried out, if deemed necessary, for the purpose of ensuring the form and function of the structure deemed necessary, for the purpose of ensuring the form and function of the structure is not compromised during construction of the development and associated infrastructure.

#### **CENTRAL AREA CONSERVATION OFFICER - 13th November 2017**

This is a piece of land which has remained substantially undeveloped historically – its post medieval use may have been for drying racks for the cloth woven locally. Prior to the introduction of flood defences this land will likely have flooded, which may be partly why it

has not had building on it. Two previous planning schemes have been granted consent, neither of which were built out due to the complexity of the site in terms of access, topography, drainage/sewers etc. The principle of development has therefore been accepted by the local planning authority.

**HERITAGE IMPACT** - The land is very visible from various vantage points within the conservation area, in particular from the Exe bridge and also from the riverside pedestrian walkway which forms part of the flood defences. The proximity of several listed buildings including the Church of St George (Grade 1) also forms the sites immediate setting. There is no doubt that there will be visual change – however, this is an urban area where change is inevitable and not necessarily harmful. Some views to St George's, which does have a formal western elevation and is clearly meant to be viewed, will be partially obscured however there will continue to be glimpses of the church and the rear of the town hall through the development. The materials selected for this development with their variation of tone, colour and texture coupled with the modern and unfussy design will complement the conservation area and introduce some positive change. In this regard I find that the proposal is in accordance with the NPPF and the heritage policy of the adopted local plan DM27.

**DESIGN** - The architect has clearly considered the development pattern of the town including the burgage plots and prevalence of small alleyways to the west of St Peter Street and St Andrew Street and has reflected this in the proposed pattern for the scheme. In this respect the proposal is a significant improvement on the most recent consented scheme which was in the form of two substantial and rather monolithic blocks. The use of the east-west terraces is a successful way of bringing the bulk of a high density development down to much more visually acceptable proportions. The advantage is also that views from the west are also broken down into smaller sections with variation in materials, heights and positions creating the visual interest and variation that is also reflective of the multi-phased development pattern of the centre of the town.

Windows and balconies have traditional proportions but modern articulation. The orientation of the housing will enable some balconies to be introduced without overlooking and privacy issues arising. Traditional roof shapes help ground the development in the traditions of the immediate area but wall treatments and other features identify the design as modern and elegant. Variation in materials and colours is reflective of the town.

Materials and detailing will be critical to the success of the scheme and it will be important to make sure these details are either conditioned or clearly defined at the time of consent.

### Summary

This scheme is a vast improvement on the previous consents and is a respectful and well designed scheme with the potential to improve the site and encourage quality modern development elsewhere in the town. The heritage issues have been well considered and taken into account and I find that whilst there is change, no harm is caused to heritage assets. I recommend approval.

**SOUTH WEST WATER** - 29th September 2017 - the applicant/agent is advised to contact South West Water if they are unable to comply with our requirements as detailed below.

### Asset Protection

Please find enclosed a plan showing the approximate location of a public sewer in the vicinity. Please note that no development will be permitted within 3 metres of the sewer, and ground cover should not be substantially altered.

Should the development encroach on the 3 metre easement, the sewer will need to be diverted at the expense of the applicant. The applicant/agent is advised to contact the Developer Services Planning Team to discuss the matter further.



### Clean Potable Water

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

### Foul Sewerage Services

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

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

### Surface Water Services

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

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

Having reviewed the applicant's current information as to proposed surface water disposal for its development, please note that method proposed to discharge into the ground (infiltration) is acceptable and meets with the Run-off Destination Hierarchy. However, should this method be amended, SWWL will require clear evidence to demonstrate why the preferred methods listed within the Run-off Destination Hierarchy have been discounted by the applicant.

Your LPA will be mindful of Local Plan policy to limit the adverse (including cumulative) effect of proposed development such that sustainability is paramount and flooding risk is not increased elsewhere, together with Paragraphs 162 of the NPPF, and Paragraphs 109 and 120 of PPG (Conserving and enhancing the natural environment).

**TIVERTON TOWN COUNCIL** - Tiverton Council feels that the proposed dwellings are not in keeping, and are out of proportion to the Conservation Area and are not sensitive to the adjacent Grade 1 and 2 listed buildings

Highway Authority - 25th September 2017 - Comments to follow

**HISTORIC ENVIRONMENT SERVICE** - 3rd October 2017

I refer to the above scheme and your recent consultation. Previous archaeological work undertaken within the area indicated on your plans has demonstrated that this area is archaeologically sterile and, as such, any development here will have no impact upon any heritage assets with archaeological interest.

The Historic Environment Team would have no comments on any future has no comments to make on this planning application.

**DEVON, CORNWALL & DORSET POLICE** - 2nd October 2017 - I have read the comprehensive and detailed Design and Access (DAS) statement and am disappointed to find that there is little or no detail regarding Crime and Disorder.

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

- o Access and movement: Places with well-defined and well used routes, with spaces and entrances that provide for convenient movement without compromising security.
- o Structure: Places that are structured so that different uses do not cause conflict
- o Surveillance: Places where all publicly accessible spaces are overlooked, have a purpose and are managed to prevent the creation of problem areas which can attract the antisocial to gather, dumping and dog fouling etc.
- o Ownership: Places that promote a sense of ownership, respect, territorial responsibility and community
- o Physical protection: Places that include necessary, well-designed security features as laid out in SBD Homes 2016
- o Activity: Places where the level of human activity is appropriate to the location and creates a reduced risk of crime and a sense of safety at all times.
- o Management and maintenance: Places that are designed with management and maintenance in mind, to discourage crime and ASB.

My main concern with the site layout is the definition of public/private space around the housing, flats and riverside garden and the potential for crime and anti-social behaviour this may bring.

Consideration should be given to access control to the entrance points for communal stairs/lifts providing access to the upper floors of the proposed flats.

With regard to plots E - H, (proposed flats), there should be meaningful defensible space provided around the blocks to ensure security and privacy for residents. This must be clearly defined with perhaps suitable height railings or similar. This is especially important if there are ground floor bedrooms or for the ground floor rooms at the back of the block where natural surveillance will be limited from neighbouring dwellings. I advise that all doors and windows should be to an independently nationally recognised security standard such as PAS 24:2016.

Care must be taken that secure rear gardens of the proposed houses cannot be accessed easily especially from adjacent boundary walls or railings.

Having spoken with the architects it is my understanding that the proposed underground parking will benefit from some form of access control and CCTV. However, a simple barrier and CCTV alone are unlikely to deter or prevent crime and anti-social behaviour and I would advise gating that is only accessible to authorised residents for both the entrance and exit points.

The DAS indicates that 1 parking space per dwelling has been allocated and there is no visitor parking on site. Residents with 2 or more vehicles and visitors will look to park as near to their choice of main access point as possible, resulting in parking on footpaths and verges. This creates potential for community conflict between residents and motorists.

I note that the proposed riverside gardens are to be open to both residents and the public. The need for Public Open Space (POS) is fully appreciated, as long as it does not run the risk of becoming a problem area or capable of having a negative impact on quality of life issues for residents. With this in mind, I have concerns over the close proximity to block A of the indicated BBQ table and benches and would recommend these be moved into a space elsewhere in the gardens to reduce potential anti-social behaviour and noise conflict. I assume the development will be fully adopted and lit as per normal council standards? Please do not hesitate to contact me if any clarification is sought or I can assist further.

**ENVIRONMENTAL HEALTH** - 4th October 2017 - Contaminated Land - No objection to these proposals

Air Quality - No objection to these proposals

Environmental Permitting - No objection to these proposals

Drainage - No objection to these proposals

Noise & other nuisances - Before the commencement of development, a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority. The CEMP shall identify the steps and procedures that will be implemented to minimise the creation and impact of noise, vibration, dust and waste disposal resulting from the site preparation, groundwork and construction phases of the development. It shall include details of the hours of operation and measures to be employed to prevent the egress of mud, water and other detritus onto the public and any non-adopted highways. Once approved the CEMP shall be adhered to at all times, unless otherwise first agreed in writing with the Local Planning Authority.

Housing Standards - No comment

Licensing - No comments

Food Hygiene - Not applicable

Private Water Supplies - Not applicable

Health and Safety - Health and Safety Executive enforced activity - No objections

**DCC LOCAL FLOOD/COASTAL RISK MANAGEMENT** - 20th October 2017 -

Recommendation:

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

Observations:

The applicant should provide evidence of permission to drill through the flood defence wall to provide an outfall into the River Exe.

The applicant should provide calculations of the brownfield runoff rates.

The applicant will also be required to submit MicroDrainage model outputs, or similar, in order to demonstrate that all components of the proposed surface water drainage system have been designed to the 1 in 100 year (+40% allowance for climate change) rainfall event.

The applicant should also note that in accordance with the SuDS Management Train, surface water should be managed at source in the first instance. The applicant will therefore be required to explore the use of a variety of above-ground source control components across the whole site to avoid managing all of the surface water from the proposed development at one concentrated point (e.g. a single attenuation pond).

Examples of these source control components could include permeable paving (which could be underdrained), formalised tree pits or other bioretention features such as rain gardens, as well as green roofs, swales and filter drains.

The applicant must submit information regarding the adoption and maintenance of the proposed surface water drainage management system in order to demonstrate that all components will remain fully operational throughout the lifetime of the development.

#### **NATURAL ENGLAND** - 3rd October 2017

No comments.

**TIVERTON CIVIC SOCIETY** - 20th October 2017 - This is undoubtedly an awkward site, posing considerable problems for potential developers, and it is also located in a sensitive position in the Tiverton Conservation Area. We have objected to previous planning applications, especially that submitted by McCarthy and Stone, for several reasons, including the very adverse impact on the settings of historic buildings, the potentially negative impact for existing residents and the unsuitable design and size of proposed buildings.

However, we consider the present proposal to be imaginative, with attractive, varied, designs and a good use of materials and colours. We also feel that the impact of the completed development on the setting of St George's Church and Tiverton Town Hall, when viewed from the west side of the River Exe, would be minimal. The east-west alignment of much of the development also respects the historical development of burgage plots and some of the existing older developments, including Ham Place.

We have no objection to this application and we consider the Tiverton Conservation Area, classified as 'Heritage at Risk' by Historic England, would be enhanced by this suitable development.

#### **HISTORIC ENGLAND** - 28th September 2017

Thank you for your letter of 19 September 2017 regarding the above application for planning permission. Historic England were consulted by the applicants at preapplication stage, and our advice to assist your authority in determining the application is the same as that provided to the applicant. Subject to confirmation that viability constraints prevent a reduction in height to better reveal the setting of the adjacent Grade I listed church, Historic England supports the proposals, which represent a considerable improvement on the consented scheme for the site.

#### Historic England Advice

These proposals are for the erection of 39 dwellings on land to the rear of Tiverton Town Hall. The site is within the Tiverton town centre Conservation Area and forms the setting to several listed buildings, notably the Grade I listed church of St George and the Grade II listed town hall itself.

The site has a long and complex planning history but has never been built upon. A map regression and records of a previous archaeological evaluation of the site that are lodged with the local historic environment record appear to validate this statement; noting that "no historic archaeological features were found during the evaluation, with all deposits associated with modern landscaping".

There have been several previous attempts to develop the site, with the most recent approval being a 2014 scheme for sheltered housing. We found little to commend in these proposals which would have created a wall of development in mock-Victorian style against the river. Unfortunately we were unable to make strong representations, due to the existence of a previous permission for an equally uninspiring scheme.

This being the case, we applaud the great deal of contextual analysis that has been undertaken to inform the latest proposals for the site. The long burgage plots of the town are correctly identified as a defining characteristic of the conservation area, many of which incorporate incremental pitched-roof extensions to the principal buildings. Narrow alleyways and glimpsed views to a wider landscape are also noted as an important attribute of the conservation area.

Drawing on this analysis, the proposals detail a series of buildings working with the steep topography of the site to step up the hillside set against the backdrop of the existing townscape. We are impressed with the proposed contextual yet contemporary approach to the architectural treatment of the proposed buildings, and the creation of intimate yet accessible public realm which references the tight urban grain of the locality. The detail of the scheme including the use of high-quality materials, will be a key part of its success.

The erection of four-storey apartments at the site's highest point will, however, have an impact upon the setting of the Grade I listed church and Grade II listed town hall. The church has a strong west-facing elevation, elegantly composed in a symmetrical neo-classical composition. However, while it may historically have been the original intention to open up views of the church from the river, the vernacular cottages opposite predate the building of the church. The visual primacy of the church in the townscape is also rather undermined by the civic bulk of the adjacent Grade II listed town hall; flamboyant in its architectural approach to the town centre but with less articulation to its river-facing elevation. We do not consider the partial screening of this elevation will harm the setting of the listed town hall.

Kinetic views of St George's church from the riverside walk will be lost, though partially compensated for by the disposition of the proposed buildings which would set up a series of more framed views. There is logic in placing the largest of the buildings at the centre of the site; moving the taller elements to the fringes would have the effect of blocking views from the bridge to the wider rural landscape beyond, to the detriment of the conservation area's character.

As a Grade I listed building, St George's church is a heritage asset of the highest significance, and the National Planning Policy Framework (NPPF) reminds us under paragraph 132 that the more important the asset the greater the weight that should be given to its conservation. The NPPF defines conservation as the process of managing a heritage asset in a way that sustains or where appropriate enhances its significance. Of course, part of the significance of St George's church is in its setting. We are content, however, that the harm to the setting of the church would be at the lower end of "less than substantial harm" (NPPF 134), and understand that a lower form of development at the top end of the site would render the project unviable. This should be verified by your authority as part of your assessment of the proposals.

Provided it is confirmed that the quantum of development cannot be reduced, you should balance the minor harm that we have identified to the setting of the church against the demonstrable heritage benefit of a contextual new development on a vacant and currently-unattractive site. Notwithstanding the modest impact on the setting of the church, the proposals may considerably enhance the character and appearance of the conservation area. There may be additional wider public (i.e. non-heritage) benefits associated with the

proposal that are beyond the remit of Historic England to comment upon, but your authority will need to weigh as part of the 'planning balance'.

#### Recommendation

In determining this application you should bear in mind the statutory duty of section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 which requires you to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.

Your authority should take these representations into account in determining the application. If there are any material changes to the proposals, or you would like further advice, please contact us. Please advise us of the decision in due course.

## **DEVELOPMENT POLICIES**

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

COR1 - Sustainable Communities  
COR2 - Local Distinctiveness  
COR6 - Town Centres  
COR7 - Previously Developed Land  
COR11 - Flooding  
COR13 - Tiverton

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

AL/DE/3 - Affordable Housing Site Target  
AL/DE/4 - Occupation of Affordable Housing  
AL/DE/5 - Inclusive Design and Layout  
AL/IN/3 - Public Open Space  
AL/IN/6 - Carbon Footprint Reduction  
AL/TIV/12 - St Andrew Street

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

DM1 - Presumption in favour of sustainable development  
DM2 - High quality design  
DM3 - Sustainable design  
DM4 - Waste management in major development  
DM8 - Parking  
DM14 - Design of housing  
DM15 - Dwelling sizes  
DM16 - Town centre development  
DM27 - Development affecting heritage assets

## **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

The main issues in the determination of this application are:

- 1. History.**
- 2. Policy.**
- 3. Flood risk.**
- 4. Highways and parking.**
- 5. Impact upon existing residential properties.**
- 6. Impact upon the Listed Buildings, Conservation Area and townscape of Tiverton.**
- 7. Other design and layout issues.**
- 8. Other site issues including ecology, trees, archaeology, contamination,**

drainage.

## 9. Other issues including financial considerations

### 1. History

Planning permission has been granted on three separate occasions for the residential redevelopment of this site. The most recent application, 14/01847/MFUL was for the erection of 44 later living (retirement type) apartments.

Conservation Area Consent was previously granted under 12/00756/CAC for the demolition of 1 and 2 St Andrew Street and garages, sheds, buildings and north/south retaining wall on land to rear. This agreed demolition has already taken place.

Planning permission was granted under 13/01601/MFUL for the conversion of 3-11 St Andrews Street and 1-2 Ham Place into 14 affordable dwellings. These 14 dwellings sit within the site allocation under policy AL/TIV/12 and form the provision of affordable homes for the overall redevelopment of the site. The dwellings have been provided and are occupied.

### 2. Policy

The Allocations and Infrastructure Development Plan Document (Local Plan Part 2) allocates the site for residential development (55 dwellings) under policy AL/TIV/12. This allocation site as a whole has a policy target of 35% affordable housing.

**Local Plan Part 1: Mid Devon Core Strategy 2007** Policy COR1 promotes managed growth to meet sustainability objectives including meeting housing needs, efficient use of land with densities of 50-75 dwellings per hectare in town centre locations, accessible development and managing flood risk. Local distinctiveness is sought in policy COR2 through high quality sustainable design reinforcing the character and legibility of the built environment and creating attractive places. Tiverton town centre's vitality and viability is to be protected and enhanced under policy COR6. This promotes enhancement and regeneration, well-designed new homes and key town centre uses and traffic management measures. A sequential approach to development seeks the development of previously developed or underused land in policy COR7. Policy COR11 seeks to manage the impact of flooding, reduce the risk of flooding and guide development to sustainable locations with the lowest flood risk by applying the sequential test and locate development in areas of higher flood risk only where the benefits outweigh the risk of flooding. Policy COR13 sets out the framework for the development of Tiverton. High quality development is sought in order to manage the town centre so economic success and heritage reinforce each other and promotes new homes and other uses contributing to vitality and viability of the town.

**Local Plan Part 2: Allocations and Infrastructure DPD.** The site is located in the settlement limits of Tiverton, the town centre and identified for residential development (55 dwellings) as an allocation within policy AL/TIV/12. There is therefore no objection in principle to the proposed redevelopment and the proposed use. 35% affordable housing is sought. 14 affordable dwellings have been provided which equates to 27% affordable housing (based on a total of 53 units within the allocation). Policies also make provision for inclusive design and layout of the market and affordable dwellings within a scheme (AL/DE/5) and financial contributions towards public open space (AL/IN/3).

### **Local Plan Part 3: Development Management policies**

Relevant policies relate to the presumption in favour of sustainable development DM1 and a positive approach to sustainable development which works positively to find solutions which allow proposals to be approved wherever possible and to secure development that improves the economic, social and environmental conditions of the area. Planning applications according with policies should be approved without unnecessary delay unless material considerations indicate otherwise.

Policy DM2 requires high quality design that demonstrates a series of principles including an understanding of the characteristics of the site, its context and surrounding area; positive contribution to character safe and accessible places, visually attractive places that are well integrated and do not unacceptably effect privacy and amenity taking account of architecture, siting, scale, massing and scale, orientation and fenestration, materials, landscaping and green infrastructure. DM3 requires sustainable design for major housing schemes and DM4 requires waste management for major development proposals.

Policy DM8 requires appropriate levels of parking, taking into account the accessibility of the site including the availability of public transport and the type, mix and use of development. Bicycle parking should also be accounted for.

Housing design is addressed in policy DM14 and seeks to deliver high quality local spaces, adequate daylight, sunlight and privacy to principal windows, suitably sized rooms and floorspace, adaptable accommodation, private amenity spaces reflecting aspects of the property, external space for recycling and refuse storage, provision of lifts in homes with more than one storey and sustainable development that maximise the natural benefits of the site through design, materials and orientation. Minimum internal floorspace requirements are set out in DM15, however these have been superseded by the nationally described space standards.

DM16 supports sustainable growth and regeneration of Tiverton and supports residential development in the town centre where the character, appearance, vitality and viability is retained or enhanced, sustains or enhances diverse town centre uses and customer choice and are accessible by public transport, walking and cycling.

Development affecting heritage assets is addressed in policy DM27 which broadly reflects the requirements of the National Planning Policy Framework in this respect. It requires development proposals likely to affect heritage assets and their settings to consider their significance, character and setting and local distinctiveness and opportunities to enhance them. Where a proposal would lead to less than substantial harm, the harm will be weighed against any public benefit (including securing optimum viable use).

### **3. Flood risk**

A Flood Risk Assessment in relation to the current application has been completed and reviewed by the Environment Agency. Policy COR11 Mid Devon Core Strategy (LP1) and guidance in the National Planning Policy Statement (together with its technical annex) apply. Most of the site is located within the flood plain of the River Exe. This area is categorised as being flood zone 3a 'high probability of flood' where flood risk is a 1 in 100 year (or greater) flood. National flood guidance advises that residential development is a 'more vulnerable' development type. The National Planning Policy Framework advises that for individual developments allocated in development plans through the sequential test, the applicants need not apply the sequential test. The allocation of this site for development within the Allocations and Infrastructure Development Plan Document incorporates the results of a strategic flood risk assessment and sequential test. This and an earlier application for



dwelling on the site have been assessed against both the sequential and exception tests and was considered to pass both. The Environment Agency have advised that they consider the development to be safe as provision has been made for dry access / egress routes from each dwelling to higher dry land in the event of flooding. The Environment Agency have not objected to the development of this site for the currently proposed residential development and it is considered that the development proposals meet the requirements of policy COR11 Mid Devon Core Strategy (LP1) and NPPF in terms of flood risk.

The current application takes account of the findings of the submitted flood risk assessment which indicates that the site is unlikely to be flooded during a 1 in 100 year event due to the presence of the defence wall and concludes that the flood risk to people when the site is complete is low. The development of the site and the reduction in impermeable areas on the site will lower the flood risk to the site and the sustainable drainage system will reduce stormwater outflow from the site into the existing sewers. Recent flood modelling has been carried out and this has indicated that flood risk to the site is not only from the River Exe (unless the existing defences failed) but in extreme events from flood waters from the River Lowman flowing overland along the A396, falling behind the River Exe defences at the West Exe bridge and then flowing north toward the site.

The FRA indicates that the minimum finished floor level should be 62.45m AOD and the proposals indicate that the minimum finished floor levels would be 62.70m (250mm above the required minimum FFL). The consultation reply from the Environment Agency confirms that these levels are acceptable. A condition safeguards minimum floor levels.

The FRA indicates that to mitigate the flood risk the site will: subscribe to the EA Flood Warnings Direct Service, place all utility services as high as practical, easy access to central heating pipework, ensure FFL are above the required minimum, keep the built development 8m from the River Exe flood defence wall and devise an emergency flood response plan in collaboration with the Environment Agency.

The Environment Agency have also indicated that it is satisfied with the design in terms of proximity to the flood defence wall and separating the site from the River Exe although prior formal written consent must be obtained from them for any works within 8m of this wall in order to safeguard its structural integrity. The Environment Agency have also suggested conditions requiring flood signs in the lower ground floor car park, the prevention of any development in the north west corner of the site to allow for access to the flood defence wall and a revised landscaping plan that prevents any formal planting or benches within 4m of the flood defence wall.

The proposal is therefore considered acceptable from a flood risk perspective and in compliance with policy COR11 Mid Devon Core Strategy (LP1) and guidance in the National Planning Policy Statement.

#### **4. Highways and parking**

Access to the development is proposed from St Andrews Street through the access created following the demolition of numbers 1 and 2. Although there would be no formal access to the development via the arch adjacent to the Town Hall, on Angel Hill, due to existing rights of access it is not possible to prevent access to the development via this route. The suitability of the access from St Andrew Street was established under the previous planning permissions and the Highway Authority have verbally indicated that the current proposals, taking into account revised plans received 16th November 2017 are acceptable.

The access from St Andrews Street is intended to serve the new build properties and will connect to the lower ground floor parking beneath the proposed apartment buildings.

The development proposes the provision of 39 parking spaces. There are 32 parking spaces proposed within the lower ground floor parking area below the apartments. There are 6 parking spaces close to the access from St Andrews Street (above ground) and 1 parking space close to the two semi detached houses in the North West corner of the site.

This current development scheme proposes significantly more parking spaces than earlier approved schemes. Policy DM8 Local Plan Part 3 (Development Management Policies) sets appropriate levels of parking. For residential schemes it sets a minimum standard of 1.7 spaces per dwelling, together with a minimum cycle parking standard and 1 electric vehicle charging point per 10 units in Tiverton. For this scheme, the standard would require 66 parking spaces instead of the 39 proposed for the use of this development. The parking associated with the scheme has increased to 1 space per residential unit from the 28 spaces previously granted to serve 44 apartments. However, the policy also allows for variation from the standard to be justified on a case by case basis and refers to taking into account the accessibility of the site including the availability of public transport and car parking; the type, mix and use of development. The site is considered to be an accessible town centre location in terms of proximity to a mix of facilities and services including public transport. With the provision of one space per dwelling and the other sustainable aspects of the development with regards to its location it is considered that the parking levels proposed are justified in this instance and in accordance with the requirements and terms set out within policy DM8. The current scheme provides 11 more parking spaces and 4 loading spaces above the provision of an earlier consented scheme which consisted of a greater number of residential units.

The proposal also includes cycle parking in the form of three bike stores. The dwellings each have a rear and front garden with gate access allowing for additional bike storage. The proposal does not provide for electric vehicle charging points as the parking is likely to be allocated to each of the units within the development. The lack of vehicle charging points is not considered grounds to justify a refusal of the application given the proximity of the development to the town centre and other sustainable forms of travel, while acknowledging that it is not fully compliant with policy DM8.

The development has been designed with vehicular access from St Andrews Street only. While the access to the site via the arch from Angel Hill (to the west of the town hall) will not be prevented, neither is it encouraged. It is a private right of way and should only be used by those that have a private right to use it for access.

To reduce traffic speeds along St Andrews Street (a no through road) and on approach to the access into the site, traffic calming measures are proposed on St Andrews Street adjacent to the south side of the new access. The Highway Authority are satisfied with this traffic calming feature and considers the proposal to be acceptable in highway safety terms.

Conditions will secure the provision of parking, access and traffic calming works. At the time of writing this report the Highways Authority have indicated that they do not object to the proposed development, however the details of the conditions that they require to be imposed on the development have not been received. These will be provided to the Planning Committee by way of an update.

In addition to other conditions to be requested by the Highway Authority, a condition is suggested that requires the submission of a construction method statement that will establish the principles of construction traffic management. The statement will need to include arrangements for pedestrian and vehicular access across the site during construction or alternative measures as well as the location of contractor parking.

Representations were received on the previous scheme relating to private rights of access and easements crossing the site in the area of the existing parking and garaging court, particularly as held by residents of Ham Place. These are not a material planning consideration to be taken into account in the determination of this application and would be addressed independently of the planning process in the event that it is implemented. The applicant is aware of these private rights and has taken them into account in the design of the proposal.

## **5. Impact upon existing residential properties**

Previous applications received objections from residents of nearby properties in Ham Place, St Andrews Street and on the northern side of the site. Three objections have been received to the current scheme. Although a significantly lower number have been received, the current proposals represent a new scheme and it is important to consider the impact of the proposals on surrounding properties.

The site is currently vacant, and apart from existing garage structures on the top part, generally free from any buildings. Development on the site will by its nature have a marked impact upon surrounding dwellings, especially those in Ham Place which are located in close proximity to the site boundary and whose rear elevations and windows look towards the site. The small rear gardens to these dwellings also face the southern boundary of the site. These dwellings and gardens are set at a lower level than the application site.

The impact upon the occupiers of existing residential properties can be best considered in four areas:

- i) Relationship between the proposed building and dwellings in Ham Place.
- ii) Relationships between the proposed buildings and properties in St Andrews Street.
- iii) Relationship between the proposed building and Memorial Cottage / Royal British Legion.
- iv) Relationship of the proposed building to dwellings to the north.

Dwellings in Ham Place are generally located approximately 3 – 5 metres from the boundary wall with the site although extensions reduce this distance in places. The buildings proposed close to the southern boundary with Ham Place are approximately 14m away from the rear of a majority of Ham Place properties. One of the buildings is 2 storeys (8.5m) and the larger building is 3 storeys (15m). Windows are located on all floors of the proposed buildings facing Ham Place. There are limited windows at first floor on the southern elevation of the two storey houses but a greater number of windows within the apartment building that face south. However, a majority of the apartment windows that face south appear to serve bedrooms and bathrooms. The apartment building closest to Ham Place does have a south west corner feature that is repeated on each floor. This a small balcony that allows views toward the river and West Exe. There are window to window distances of approximately 14m although the plans suggest that the proposed windows would not be at the same level as windows in the Ham Place properties due to the significant difference in levels and height of these properties. The properties in Ham Place have a ground floor level approximately 2m lower than the level of the application site. There are therefore large differences in levels between the site and Ham Place. The plans indicate that trees are proposed to be planted on the southern boundary of the site that, over time, would help to soften views from Ham Place toward the new development. Further east in the site, where the land rises toward St Andrews Street, ornamental planting is proposed on the southern boundary.

The properties to the north of the site on St Andrews Street are set at a significantly higher

level than those in Ham Place. These properties have recently been converted into 14 affordable homes. The works are complete and the properties are occupied. From the rear windows of these St Andrew Street properties the development site would be clearly visible. The apartment buildings would be approximately 28m to the south of these properties. Due to the distance separating the St Andrews Street properties and the apartment buildings, and their higher topographical position, it is considered that the development will not have a detrimental impact on the amenity of the occupiers of these properties.

Memorial Cottage is located close to the application site being situated on the southern end of the Royal British Legion building. The distance between the gable end of this property and the closest of the apartment buildings is approximately 8m. This gable end contains the fire exit staircase from the Royal British Legion Hall on the first floor, but also a kitchen and lounge window to Memorial Cottage.

The gable end of Memorial Cottage would look toward the alleyway between the northern most pair of apartment buildings. However both of the apartment blocks would be considerably higher than the British Legion building and as a consequence significantly higher than Memorial Cottage. The proposed scheme is considered to have a detrimental impact upon the amenities of Memorial Cottage compared to the present situation due to the height and proximity of the apartment buildings which will appear overbearing. However this impact is to some extent reduced due to the presence of the fire exit staircase on the gable end closest to the proposed development.

No representations have been received relating to the relationship between the rear of Memorial Cottage / the Royal British Legion Hall building and the proposed development. Extensive windows are located on the rear elevation of the Cottage and hall together with a patio area. This is significantly raised in relation to the lower development site but lower than the apartment buildings. The outlook from the rear windows of the Hall / Cottage are angled slightly North West and as such they look across land to the north of the application site toward Angel Court rather than directly towards windows associated with upper floor accommodation in the application building. This reduces the impact of the scheme upon the outlook of the Hall / Cottage building. The relationship between these windows and those on the nearest apartment buildings is considered acceptable taking into account the orientation of the proposed buildings and the lack of windows in close proximity of Memorial Cottage.

Two of the proposed dwellings and one of the apartment buildings are located in close proximity with the northern boundary of the site beyond which is located the garden to an existing property. Windows are located within the rear elevation of the houses and in the side elevation of the apartment building. These windows would allow for views into the garden to the north. However this area of garden is at distance from the dwelling to which it relates and appears little used in comparison with the area closest to the dwelling. It is already overlooked from the rear windows of Angel Hill properties and is not considered to be a particularly private space.

It is acknowledged that there will be a detrimental impact upon the occupiers of certain dwellings around the site as identified within preceding paragraphs. In certain respects the degree of this impact has reduced in the current scheme in comparison with that previously approved, however in others the degree of impact would be worsened. The degree of impact must be taken into account in the planning balance when considering the negative impacts of the development and whether they are outweighed by the scheme's planning benefits. Also to be taken into account is the previously approved scheme, which also had similar impacts on properties surrounding the site. In respect of the relationships with certain properties, the application cannot be said to be in strict conformity with policy DM2 Local Plan Part 3 (Development Plan Policies) but in certain respects is an improvement over the

previous scheme.

Conditions will be required to establish boundary treatment between the scheme and adjacent dwellings as some of the details submitted on the proposals are unclear regarding the nature and intended height of boundary treatment.

## **6. Impact upon the Listed Buildings, Conservation Area and townscape of Tiverton, design approach.**

The site is located within Tiverton Conservation Area, close to Listed Buildings - Town Hall Grade II, St George's Church Grade I, Tiverton Museum Grade II\*, Memorial Hall and Cottage Grade II and other properties in St Andrews Street further south are Grade II. The site also lies adjacent to two Grade II Listed Buildings at numbers 9 and 10 St Andrew Street. The site occupies a prominent waterfront location readily visible within the townscape of Tiverton from the river bridge to the north and south, from across the river and the northern part of the site forms part of the existing streetscene in St Andrews Street. The site is therefore sensitive and important in historic building, wider conservation and townscape terms.

Prior to the submission of the current planning application pre-application discussions took place involving Historic England and officers of the Local Planning Authority, including the Council's Conservation Officer. The impact of the proposal upon Tiverton Conservation Area, including the waterfront and associated views together with the setting of multiple listed buildings formed part of these discussions.

The scheme has been supported by a comprehensive design and access statement which includes an examination of the heritage assets that provide the context of the site, the significance of these assets and the impact of the proposal upon them, together with the national policy context. Historic England have applauded the great deal of contextual analysis that has been undertaken to inform the proposals for the site and state that the current proposals represent a considerable improvement on the consented scheme for the site.

The National Planning Policy Framework is of relevance. Of particular importance are the following paragraphs:

Core planning principles refer to securing high quality design.. take account of the different roles and character of different areas.. conserve heritage assets in a manner appropriate to their significance.

56 - Great importance is to be attached to good design which is a key aspect of sustainable development.

126 - It is desirable to sustain and enhance the significance of heritage assets and to put them to viable new uses consistent with their conservation. That new development should make a positive contribution to local character and distinctiveness draw on the contribution made by the historic environment to the character of the place.

128 and 129 - These require the significance of the affected heritage asset to be assessed. The level of detail should be proportionate to the significance of the asset. When considering the impact of the proposal upon the heritage asset, its significance should be taken into account.

131 - In determining applications, account should be taken of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation; the positive contribution that the conservation of heritage assets can make to sustainable communities and that new development should make a positive contribution to local character and distinctiveness.

132 - When considering the impact of the proposed development upon the significance of a heritage asset, great weight should be given to its conservation. The more important the asset, the greater the weight. Any harm or loss should have clear and convincing justification.

134 - Where the development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including its optimum viable use.

Historic England have stated that the long burgage plots of the town are correctly identified as a defining characteristic of the conservation area and the narrow alleyways and glimpsed views to a wider landscape are also an important attribute of the conservation area.

The response from Historic England identifies that the proposals detail a series of buildings working with the steep topography of the site set against the backdrop of the townscape. They comment that the proposed contextual yet contemporary approach to the architectural treatment of the proposed buildings, and the creation of intimate yet accessible public realm (which references the tight urban grain of the locality) is successful. They also comment that the details of the scheme and the use of high quality materials will be a key aspect of the development being a success.

Historic England acknowledge that the 4 storey apartments will have an impact on the setting of the Grade 1 listed St Georges Church and Grade II listed town hall. However, their advice concludes that the harm to the setting of the church and that of the town hall would be at the lower end of "less than substantial harm" (NPPF Para 134) and that the proposals may considerably enhance the character and appearance of the conservation area through the development of a vacant and unattractive site.

The Council's Conservation Officer has also provided detailed views in respect of the impact of the proposals on heritage assets and the design approach:

*This is a piece of land which has remained substantially undeveloped historically – its post medieval use may have been for drying racks for the cloth woven locally. Prior to the introduction of flood defences this land will likely have flooded, which may be partly why it has not had building on it. Two previous planning schemes have been granted consent, neither of which were built out due to the complexity of the site in terms of access, topography, drainage/sewers etc. The principle of development has therefore been accepted by the local planning authority.*

*HERITAGE IMPACT - The land is very visible from various vantage points within the conservation area, in particular from the Exe bridge and also from the riverside pedestrian walkway which forms part of the flood defences. The proximity of several listed buildings including the Church of St George (Grade 1) also forms the sites immediate setting. There is no doubt that there will be visual change – however, this is an urban area where change is inevitable and not necessarily harmful. Some views to St George's, which does have a formal western elevation and is clearly meant to be viewed, will be partially obscured however there will continue to be glimpses of the church and the rear of the town hall through the development. The materials selected for this development with their variation of tone, colour and texture coupled with the modern and unfussy design will complement the conservation area and introduce some positive change. In this regard I find that the proposal is in accordance with the NPPF and the heritage policy of the adopted local plan DM27.*

*DESIGN - The architect has clearly considered the development pattern of the town including the burgage plots and prevalence of small alleyways to the west of St Peter Street and St Andrew Street and has reflected this in the proposed pattern for the scheme. In this respect the proposal is a significant improvement on the most recent consented scheme*

*which was in the form of two substantial and rather monolithic blocks. The use of the east-west terraces is a successful way of bringing the bulk of a high density development down to much more visually acceptable proportions. The advantage is also that views from the west are also broken down into smaller sections with variation in materials, heights and positions creating the visual interest and variation that is also reflective of the multi-phased development pattern of the centre of the town.*

*Windows and balconies have traditional proportions but modern articulation. The orientation of the housing will enable some balconies to be introduced without overlooking and privacy issues arising. Traditional roof shapes help ground the development in the traditions of the immediate area but wall treatments and other features identify the design as modern and elegant. Variation in materials and colours is reflective of the town.*

*Materials and detailing will be critical to the success of the scheme and it will be important to make sure these details are either conditioned or clearly defined at the time of consent.*

### Summary

*This scheme is a vast improvement on the previous consents and is a respectful and well designed scheme with the potential to improve the site and encourage quality modern development elsewhere in the town. The heritage issues have been well considered and taken into account and I find that whilst there is change, no harm is caused to heritage assets. I recommend approval.*

The site is allocated for housing in the Local Plan. It introduces 8 buildings, 4 of which are 2 storey and are placed close to the western side of the site on the flatter area of land. Each of these 4 buildings are subdivided to form either a terrace of 3 houses or a pair of semi detached houses. Of the other 4 buildings, two are 3 storeys high and two are 4 storeys high. The 4 storey buildings sit closest to the centre of the site. Each of the 4 storey buildings are linked to a 3 storey building. The 3 and 4 storey buildings contain apartments.

The apartment buildings are higher than the majority of riverside development in this area as a result of the number of storeys and the minimum floor levels required for flood risk reasons. The height of the 4 storey buildings is up to 18.5m to ridge and the 3 storey buildings are up to 15m to ridge. This maximum height includes the lower ground floor parking area. The height of the buildings echo those at the bottom of Angel Hill adjacent to the bridge and the higher, more formal scale of buildings in St Peter Street. The 11 houses on the western part of the site are 8.5m to ridge and the height of these buildings is more in keeping with the lower in height dwellings that form part of Ham Place, close to the riverside.

The Town Hall and St George's Church occupy important and skyline positions in the Conservation Area as well as being Listed Buildings. Views of these buildings will change as a result of the development and from certain vantage points their elevation will not be as visible as present, particularly the view from the directly across from the western side of the River Exe. However the scheme will retain framed views of the town hall and St George's Church through the positioning of the buildings on the site and the creation of alleyways between buildings. The impact of the scheme upon this view and those from the two river bridges either side of the site has been illustrated through the submission of accurate plans.

The scheme gives some emphasis to the river front although the larger scaled buildings are not adjacent the river frontage but step up through the site taking advantage of the topography. The backdrop of the development is the existing townscape of Tiverton. It is considered that the placement and form of the proposed buildings introduces a scheme that respects the form and character of Tiverton, its conservation area and nearby listed buildings whilst also allowing for a contemporary form of architecture. The site is not considered to currently contribute positively to the character of the conservation area, being

derelict and overgrown. The scheme addresses these issues and provides an opportunity to regenerate this area. The scale and height of the development is considered to be acceptable and will proposals will compliment the conservation area.

The scheme represents a significant change to the appearance of this part of the conservation area. The design and detailing of this scheme seeks to deal with the difficult constraints of the site in a way which is respectful of surrounding heritage assets and provides a contemporary architectural response to developing the site. It is concluded that the proposals will be of benefit to the conservation area by improving a vacant and unattractive site. The Conservation Officer and Historic England have concluded that the impact of the proposed development will be less than substantially harmful. Paragraph 134 of the Framework establishes in such instances that this harm should be weighed against the public benefits of the proposal, including its optimum viable use. Accordingly the detrimental impact of the site upon these assets due to its condition and derelict state needs to be taken into account. The scheme will benefit the conservation area through regeneration while delivering 39 new dwellings.

The proposal is therefore considered acceptable in relation to heritage asset impact in accordance with the approach set out in the National Planning Policy Framework and DM27 of the Local Plan Part 3 (Development Management Policies).

The design approach to architectural style, scale, massing and location of the buildings on the site is considered acceptable and to be a significant improvement upon previously consented schemes for this site. The proposals have been supported by the Council's Conservation Officer and Historic England. In respect of the overall approach to scale, massing and location, the proposal is considered to be in accordance with policies COR2, COR6, COR13 Core Strategy (Local Plan Part 1); AL/TIV/12 Allocations and Infrastructure Development Plan Document (Local Plan Part 2) and DM1, DM2, DM14 and DM27 Local Plan Part 3 (Development Management Policies).

## **7. Other design and layout issues**

The site is a challenging one and is heavily constrained in terms of access location and significant levels differences between the eastern and western areas needing to be accommodated.

Areas around the buildings are to be laid out and landscaped as communal gardens. There is also an area of public open space adjacent to the river within the scheme. Additional off site provision of public open space is considered in the financial implications section of this report.

Policy DM14 assesses new housing design and requires the provision of certain elements of design taking into account the physical context, local character and density of the development. The current application seeks permission for a mix of two storey, family style dwellings and 1 and 2 bedroomed apartments. The apartments are in buildings of 3 and 4 storeys high and are accessible by lift or stairs. The dwellings each have a front and rear gardens with gated access. All of the residential units have access to the public open space proposed alongside the River Exe Flood Defence wall. The floorspace of the dwellings and apartments are considered to be acceptable and broadly in accordance with the nationally described space standards that have superseded the internal floorspace standards set out within policy DM15. The layout of the scheme and detailing are considered acceptable, but issues such as materials, surfacing and boundary features will need to be controlled by condition.



Representation from Police Architectural Liaison Officer has indicated a potential for fear of crime and anti-social behaviour in association with the lower ground floor parking area. They have suggested that some form of controlled access to this area may be appropriate and indicate that the car parking area could be gated. The comments have been forwarded to the Applicant's Agent to consider whether they wish to amend the plans in light of the Police Architectural Liaison Officer's remarks. A lighting scheme will also be required for the site, including the area within the lower parking area in order to balance the need to add to security without disturbing the amenities of the occupiers of nearby residential properties or bats. The issue of crime prevention / reduction measures within the development of the site has previously been addressed by condition and it is proposed to do so again.

## **8. Other site issues including ecology, trees, archaeology, contamination, noise, drainage**

A preliminary ecological appraisal and an ecological update have been submitted with the application. Previous protected species reports are also available from the assessment of previous development schemes. The most recent assessments of the site have indicated that there is bat activity across the site and sensitive lighting will be required. Natural England have made no comments on the application.

With appropriate mitigation the proposals are not considered to have a detrimental impact upon protected species and would therefore be in accordance with Policy DM2 [c] Local Plan Part 3 (Development Management Policies) and the NPPF.

An arboricultural impact assessment was submitted with the application. It concluded that the trees that remain on the site (that has previously been cleared) should not be treated as a constraint to development. The few trees on site have been categorised as low quality and value as they were vegetation arising from the disuse of the site and had had no management. None of the few trees that remain on the site are considered to be worthy of a tree preservation order. The scheme is considered to be an opportunity to enhance the arboricultural value of the site through a landscaping scheme.

The Historic Environment Service has confirmed that development will not have a significant impact upon any known heritage assets and have no further comments to make. Archaeological investigation has previously taken place and the results were provided to the historic environment service. No archaeology condition is required.

A site investigation has been undertaken and a report submitted with the application. Contamination potential is thought to be low and Environmental Health have not objected to the proposed development. In this regard the proposal is in accordance with policy DM7 that prevents development that could have a negative impact on the quality of the environment or an impact on health or general amenity.

Due to the town centre location of the site and its proximity to existing residential properties, Environmental Health have recommended that a Construction Environmental Management Plan is submitted and approved prior to the commencement of development. The plan should identify the steps and procedures that will be implemented to minimise the creation and impact of noise, vibration, dust and waste disposal resulting from site preparation, groundwork and during construction. Environmental Health suggest that hours of operation are included in the plan as well as measures to prevent egress of mud and water onto any highway. The requirement for such a plan is considered to be a reasonable condition to ensure that the impacts on the occupiers of nearby residential properties are minimised during the construction of the development. It is not considered that the residential use of the site would result in noise pollution and the imposition of the condition suggested by

Environmental Health should also ensure that the amenity of nearby residents is protected during construction. With regards to noise, the development is therefore considered to be in accordance with policy DM7 Local Plan Part 3 (Development Management Policies).

Policy DM4 Local Plan Part 3 (Development Management Policies) requires the provision of a waste management plan for the development. It must be compiled based on sustainable waste management principles as detailed in policy DM4. While the submitted plans indicate the provision of refuse storage areas for the apartments and there have been discussions regarding the collection of refuse, a waste audit statement is required to ensure the development is in accordance with policy DM4. The waste audit statement will be required by condition.

A foul and surface water drainage strategy has been provided. A combined sewer running through the site will accept foul drainage from the site. The sewer is proposed to be diverted through the site but with the development being connected into it. Surface water flows are to be discharged through an outfall discharge point into the River Exe. This would be fitted with a non return valve. The Environment Agency have previously agreed to this approach and have not objected to this proposal. Underground surface water storage is to be provided as part of the proposed scheme. Discharge from the underground storage tank would be flow controlled prior to discharge into the river. The management of the surface water from the site and its diversion into the River Exe (via the storage tank) is considered to be an overall improvement to the drainage arrangements of the site.

While the Environment Agency and South West Water have accepted the proposed drainage arrangements, the Lead Local Flood Authority have requested additional information. The Applicant's Agent will be supplying this additional information. Any further comments from the Lead Local Flood Authority will be provided by way of an update to the Planning Committee. Upon receipt of further information it is considered likely that the Lead Local Flood Authority will be in a position to remove their current objection to the scheme and for it to be concluded that the current drainage proposals are in accordance with policy DM2 (f) Local Plan Part 3 (Development Management Policies) that requires development to be served by appropriate drainage, including sustainable drainage systems where available.

## **9. Other issues: viability and impact upon the provision of affordable housing and public open space.**

Policies AL/DE/3 and AL/TIV/12 set out the requirements for the provision of affordable housing. The size of the site and number of houses proposed dictate that 35% affordable housing is sought subject to maintaining a viable development and achieving other planning objectives. 35% across the whole allocation site would equate to a total of 18 units (53 units proposed in total: 14 previously approved and provided affordable units and 39 within current proposal). 14 (26%) have been provided on land now outside this application site, through the conversion of properties in St Andrews Street / Ham Place. No further affordable dwellings are proposed as part of this application, nor a financial contribution towards off site provision due to viability concerns.

A statement provided by the Applicant submitted as part of the current application sets out concerns relating to the viability of developing the site. Indeed it is acknowledged that two previously approved schemes were not implemented as neither were found to be viable in the latter stages of development preparations. The viability of redeveloping the site is based upon economic conditions and taking into account the costs associated with developing the site. The need to take account of market conditions and scheme viability is recognised in national and local policy. Additional affordable housing, or the provision of an off site contribution toward the provision of additional public open space would render the

development unviable. There are abnormal development costs associated with the development of this site including site clearance and access, sewer diversion and high build costs due to topography and the proximity to the River Exe flood defences.

It is agreed that this is a highly constrained site necessitating a high quality bespoke development and approach to access and parking in order to ensure its redevelopment does not have an adverse impact on the Conservation Area or the setting of listed buildings and other heritage assets. These constraints and abnormal costs have a significant effect on viability and increase developer risk. From reviewing the viability assessment it is concluded that the site cannot support the provision of further affordable housing or a financial contribution toward the off site provision of additional public open space. It is therefore considered to be justified to approve the current proposals while acknowledging that the scheme is not wholly compliant with policies AL/DE/3, AL/IN/6 or AL/TIV/12 of the Allocations and Infrastructure Development Plan Document.

## **11. Financial considerations**

The Localism Act has introduced financial considerations as a material planning consideration. The money received under the New Homes Bonus can be taken into account under this provision. If New Homes Bonus is distributed across the Council Tax bands in the same way as last year, the award for each apartment is estimated to be £1,028 per year, paid for a period of 5 years. The amount of New Homes Bonus that would be generated from this proposal over a period of 5 years is therefore estimated to be £200,460. Members are advised that this consideration has little weight in the overall assessment of the issues on this application.

## **12. Rights of way.**

Private rights of way exist through the existing car park to the rear of the Town Hall and garage forecourt area. These rights of way are not material planning considerations, but relate to private legal issues between the owner of the land and the holder of the right of way. Their presence does not prevent planning permission being granted for the scheme and will need to be addressed separately from the consideration of this application.

### **The planning balance.**

In coming to a recommendation on this application, its impacts must be considered and whether they are outweighed by the benefits. A detrimental impact has been attributed to the height of the apartment buildings and the impact on the setting of a listed building, but this is considered to be less than substantial harm by the Conservation Officer and Historic England (when taking into account the viability of the redevelopment of the site). However, the design quality of the scheme including architectural detailing has been identified as being very good by both the Conservation Officer and Historic Environment, a view supported by the Tiverton Civic Society.

The scheme will therefore deliver a marked benefit in the redevelopment of this currently derelict and unattractive waterfront site that is currently detracting from the character and appearance of the conservation area and setting of surrounding listed buildings. The site has remained undeveloped for a considerable period of time and is identified as suitable for residential development through its previous allocation.

There are likely to be negative impacts on the amenities of the occupiers of Ham Place and certain other surrounding properties, including Memorial Cottage. Their amenity would significantly change as a result of any scheme for this site that delivered the level of development for which it has been allocated. It is acknowledged that the impact of this proposal will in part be detrimental upon these dwellings. However the current scheme

represents an improvement over that previously approved as a result of the reduction in the bulk and mass of the development, the reduction in height of the development on the lower, western, part of the site and the distance between the rear/side of the new development and the rear of residential properties in Ham Place.

The scheme does not deliver the degree of affordable housing or public open space that would normally be sought. However viability information has been submitted that demonstrates that the cost of the scheme, including the abnormal construction cost, plus the requirements for Public Open Space contribution and additional affordable homes provision, will not be viable. The development of the allocated site has provided 14 new affordable dwellings equating to a 26% provision of affordable homes.

The proposal will deliver 39 new dwellings, including a mix of sizes of accommodation in a location that is allocated for residential development. with regards to its location it is a sustainable site in the town centre, close to a range of facilities, services and public transport. There are few such sites available within Tiverton or that provide a mix of accommodation as well as acceptable parking provision.

Within the National Planning Policy Framework, Local Planning Authorities are urged to deliver growth in the form of sustainable economic development and every effort should be made to objectively meet the housing, business and other development needs of an area. The site is allocated for residential development and is expected to be developed for this purpose. The delivery of new housing is encouraged through the NPPF which also states that significant weight should be placed on the need to support economic growth through the planning system. Taking into account all the material considerations, it is recommended that planning permission is granted subject to conditions.

### **Summary.**

The site is allocated for residential development in the Allocations and Infrastructure Development Plan Document and has previously been granted planning permission. The scheme will secure the regeneration and environmental enhancement of a semi-derelict and mainly vacant site in a prominent waterfront location within Tiverton Conservation Area. The development will result in less than substantial harm to the Conservation Area and setting of listed buildings, including St Georges Church and the Town Hall. The design approach has been justified and applauded and considered to result in a development that will sit comfortably upon the site and provide wider benefits. The creation of the new vehicular access has previously been found to be acceptable and the associated buildings have been demolished under previous permissions. The impact of the development upon highway safety is acceptable and although less than standard, sufficient parking is provided taking into account its location in the town centre within walking distance of a range of facilities and services and type of accommodation. The lack of provision of affordable housing and other planning contributions has been financially justified. The site is located in flood zone 3a, the Local Planning Authority and Environment Agency have assessed it against the requirements of the National Planning Policy Framework and are satisfied that it is safe and does not increase the risk of flooding elsewhere. The impact of the scheme upon certain nearby existing residential properties has been assessed. Whilst there will be a loss of amenity due to the relative height and proximity of the development, this loss has been in part mitigated through reductions to the height of some of the units and is not considered so severe as to warrant refusing permission. The application has been assessed against development plan policies and guidance and it is recommended that planning permission, subject to condition, should be granted. The proposal is considered acceptable and to be in broad compliance with Policies COR1, COR2, COR6, COR7, COR9, COR11 and COR13 of the Mid Devon Core Strategy (Local Plan Part 1); AL/IN/6 and AL/TIV/12 Allocations and Infrastructure Development Plan Document (Local Plan Part 2); DM1, DM2, DM3, DM4,

DM8, DM14, DM15, DM16 and DM27 Local Plan Part 3 (Development Management Policies) and the National Planning Policy Framework.

## CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice.
3. The development shall take place in accordance with the contents of a phasing scheme which shall first have been submitted to and approved in writing by the Local Planning Authority.
4. No development shall begin within each phase of the development until samples of all the materials to be used for all external surfaces of the buildings, boundary treatment and hard landscaping relating to that phase have been submitted to and approved in writing by the Local Planning Authority. The development shall take place in accordance with the approved materials and shall be so retained.
5. No development shall begin within each phase of the development until details of the treatment of the boundaries (including height, design and materials) of the application site and any boundaries within the application site, relating to that phase have been submitted to and approved in writing by the Local Planning Authority. Boundary treatments shall be in accordance with the agreed details and shall be so retained.
6. No development shall begin within each phase of the development until details of proposed external lighting relating to that phase have been submitted to and approved in writing by the Local Planning Authority. Installation shall be in accordance with the submitted details and so retained.
7. Notwithstanding the submitted plans, prior to the first occupation of any of the residential units hereby approved a landscaping scheme for the area of Public Open Space on the western boundary of the site (adjacent to the River Exe flood defence wall) to include details of all planting, seeding, turfing or earth reprofiling, shall be submitted to and approved in writing by the Local Planning Authority. The plan shall not include any planting or recreational features, benches, or tables within 4m of the River Exe flood defence wall. The approved landscaping shall be carried out within 9 months of the substantial completion of the eleven, two storey dwellings toward the western side of the application site and shall be retained. Any trees or plants which, within a period of five years from the completion of the Public Open Space die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size or species.
8. The landscaping scheme hereby approved, including all planting, seeding, turfing or earth reprofiling within each phase of the development shall be carried out within 9 months of the substantial completion of each phase of the development. Any trees or plants which, within a period of five years from the completion of the Public Open Space die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size or species.
9. None of the apartments or dwellings shall be first occupied until the parking and turning facilities within the application site have been provided, laid out and are available for

use in accordance with the approved plans. The approved parking shall be retained for that purpose at all times.

10. Finished floor levels shall be no lower than 62.7m AOD.
11. Notwithstanding the submitted details, prior to the commencement of the development, details of a proposed surface water system and associated attenuation on site shall be submitted to and approved in writing by the Local Planning Authority. The foul and surface water system and attenuation shall be implemented in accordance with the approved details prior to the first occupation of each residential unit to which it relates and shall be so retained.
12. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme together with time scale for their completion must be prepared which is subject to the prior approval in writing of the Local Planning Authority. The measures shall be completed in accordance with the approved remediation scheme. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.
13. No development shall begin until a Construction Traffic Management Plan, to include details of:
  - (a) parking for vehicles of site personnel, operatives and visitors
  - (b) loading and unloading of plant and materials
  - (c) storage of plant and materials
  - (d) programme of works (including measures for traffic management)
  - (e) provision of boundary hoarding behind any visibility zoneshas been submitted to, and agreed in writing by, the Local Planning Authority. The Construction Traffic Management Plan shall be adhered to throughout the construction period.
14. Prior to the commencement of the phase in which it relates, details of crime prevention and security measures in relation to the lower parking area shall be submitted to and approved in writing by the Local Planning Authority.
15. Prior to the installation of any door or window, working details including sections, mouldings, profile, means of opening and position in the reveal of all windows shall be submitted to and approved in writing by the Local Planning Authority. The windows and doors shall be fitted in accordance with the agreed details and so retained.
16. The off site highway works on St Andrews Street (to include raised traffic calming measures and all associated works) shall be provided and maintained in accordance with details that shall have been submitted to and agreed in writing by, the Local Planning Authority. The timing of such provision shall be in accordance with the phasing scheme to be agreed under condition 3.
17. Prior to the first occupation of any of the residential units hereby approved, signs warning users of the potential of flooding of the lower ground floor parking spaces (below the apartments) shall be erected within this parking area in accordance with details that shall first have been submitted to and agreed in writing by the Local Planning Authority.

18. No development shall begin until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall include the steps and procedures that will be implemented to minimise the creation and impact of noise, vibration, dust and waste disposal resulting from site preparation, groundwork and construction phases of the development. It shall include hours of operation and measures to prevent the transfer of mud and water from the site onto any highway. The development shall be carried out in accordance with the approved Construction Environmental Management Plan.
19. Prior to the commencement of any site preparation, ground works or construction, a waste audit statement shall be submitted to and approved by the Local Planning Authority. The statement shall set out how during the construction and operation of the development waste will be managed according to the following hierarchy (in descending order of preference): Prevention, Preparing for re-use, Recycling, Other recovery, Disposal.

#### **REASONS FOR CONDITIONS:**

1. In accordance with the provisions of Section 51 of the Planning and Compulsory Purchase Act 2004.
2. For the avoidance of doubt and in the interests of proper planning.
3. In the interests of safeguarding the amenities of the site and surrounding area due to the constrained nature of the site and sensitive location in accordance with Policy DM2 of the Local Plan Part 3 (Development Management Policies) and the National Planning Policy Framework.
4. To ensure the use of materials appropriate to the development in order to safeguard the visual amenities of this important riverfront location, the character and appearance of the Conservation Area and setting of nearby Listed Buildings in accordance with Policy COR2 of the Mid Devon Core Strategy (Local Plan Part 1), Policies DM2, DM14 and DM27 of the Local Plan Part 3 (Development Management Policies) and the National Planning Policy Framework.
5. In the interests of reducing the impact of the scheme upon the privacy and amenities of the occupiers of the adjacent dwellings and to safeguard the visual amenities of this important riverfront location, the character and appearance of the Conservation Area in accordance with Policies COR2 of the Mid Devon Core Strategy (Local Plan Part 1), Policies DM2, DM14 and DM27 of the Local Plan Part 3 (Development Management Policies) and the National Planning Policy Framework.
6. To reduce the impact of the development upon the amenities of the occupiers of nearby dwellings, to reduce the impact of the scheme upon the bat population in the area and in the interests to preventing crime and creating safe places in accordance with Policies COR1 of the Mid Devon Core Strategy and DM2 of the Local Plan Part 3 (Development Management Policies).
7. To ensure that the development makes a positive contribution to the character and amenity of the area in accordance with Policy DM2 of the Local Plan Part 3 (Development Management Policies) and the National Planning Policy Framework.

8. To ensure that the development makes a positive contribution to the character and amenity of the area in accordance with Policy DM2 of the Local Plan Part 3 (Development Management Policies) and the National Planning Policy Framework.
9. To ensure that adequate facilities are available for the traffic attracted to the site in accordance with Policy DM8 of the Local Plan Part 3 (Development Management Policies).
10. In the interests of reducing the risk of inundation by flood waters and to ensure the safety of the occupiers of the proposed development in the event of flooding in accordance with Policy COR11 of the Mid Devon Core Strategy (Local Plan Part 1), Policy DM2 of the Local Plan Part 3 (Development Management Policies) and the National Planning Policy Framework.
11. In the interests of ensuring that adequate drainage is provided to serve the development and to reduce the risk of pollution in accordance with Policy DM2 of the Mid Devon Local Plan Part 3 (Development Management Policies).
12. To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policies DM2 and DM7 of the Local Plan Part 3 (Development Management Policies).
13. To minimise any disruption and inconvenience on the local highway network during the construction period in accordance with COR1 of the Mid Devon Core Strategy (Local Plan Part 1) and Policy DM2 of the Local Plan Part 3 (Development Management Policies).
14. In the interests to preventing crime and creating safe places in accordance with Policies COR1 of the Mid Devon Core Strategy and DM2 of the Local Plan Part 3 (Development Management Policies).
15. To ensure the use of details appropriate to the development in order to safeguard the visual amenities of this important riverfront location, the character and appearance of the Conservation Area and setting of nearby Listed Buildings in accordance with Policy COR2 of the Mid Devon Core Strategy (Local Plan Part 1) and Policies DM2, DM14 and DM27 of the Local Plan Part 3 (Development Management Policies).
16. To provide an adequate site access in accordance with Policies COR1 of the Mid Devon Core Strategy and DM2 of the Local Plan Part 3 (Development Management Policies).
17. To provide warning to residents and users of the car parking spaces that the area could be affected by flooding.
18. To minimise any disruption and inconvenience to the amenity of occupiers of nearby properties during the construction period in accordance with Policies DM2 and DM7 Local Plan Part 3 (Development Management Policies).
19. To encourage the most sustainable methods of waste management In accordance with the requirements of Policy DM4 of the Local Plan Part 3 (Development Management Policies).



## **INFORMATIVE NOTES:**

1. You are advised that a Section 278 Agreement will be required for works on the highway. More information may be gained from the Highway Authority (Devon County Council).
2. You are informed that planning permission does not absolve compliance with the relevant law, including obtaining and complying with the terms and conditions of any European Protected Species Licence.

Destruction of a bat roost is an absolute offence and requires a mitigation licence from Natural England. Under the Conservation of Habitats and Species Regulations 2010 it is an absolute offence to damage or destroy a bat roost. The Regulations fully protect bats and their breeding sites or resting places making it an offence to:

Deliberately capture (take), injure or kill bats;  
Deliberately disturb bats;  
Damage or destroy a bat breeding site or resting place.

In addition the wildlife and Countryside Act 1981 (as amended) makes it an offence to:

Disturb any bat whilst it is occupying a structure or place which it uses for shelter or protection;  
Obstruct access to any structure or place which any bat uses for shelter or protection.

Any work must be undertaken under the principle of Continuing Ecological Functionality (CEF) must be completed at a time of the year when bats are not present in a roost. The CEF concept may not be invoked to allow the taking and transporting of bats, or the permanent alteration or destruction of a roost.

3. You are advised that prior written consent must be gained from the Environment Agency for any works with 7 metres of the existing flood defence wall. You are advised that this is a statutory requirement, the purpose of which is to safeguard the structural integrity of and thus function of the existing flood defence wall during and after the construction of the development.

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

The site is allocated for residential development in the Allocations and Infrastructure Development Plan Document and has previously been granted planning permission. The scheme will secure the regeneration and environmental enhancement of a semi-derelict and mainly vacant site in a prominent waterfront location within Tiverton Conservation Area. The development will result in less than substantial harm to the Conservation Area and setting of listed buildings, including St George's Church and the Town Hall. The design approach has been justified and considered to result in a development that will sit comfortably upon the site and provide wider benefits. The creation of the new vehicular access has previously been found to be acceptable and the associated buildings have been demolished under previous permissions. The impact of the development upon highway safety is acceptable and although less than standard, sufficient parking is provided taking into account its location in the town centre within walking distance of a range of facilities and services and type of accommodation. The lack of provision of affordable housing and other planning

contributions has been financially justified. The site is located in flood zone 3a, the Local Planning Authority and Environment Agency have assessed it against the requirements of the National Planning Policy Framework and are satisfied that it is safe and does not increase the risk of flooding elsewhere. The impact of the scheme upon certain nearby existing residential properties has been assessed. Whilst there will be a loss of amenity due to the relative height and proximity of the development, this loss has been in part mitigated through reductions to the height of some of the units and is not considered so severe as to warrant refusing permission. The application has been assessed against development plan policies and guidance and it is recommended that planning permission, subject to condition, should be granted. The proposal is considered acceptable and to be in broad compliance with policies COR1, COR2, COR6, COR7, COR9, COR11 and COR13 of the Mid Devon Core Strategy (Local Plan Part 1); AL/IN/6 and AL/TIV/12 Allocations and Infrastructure Development Plan Document (Local Plan Part 2); DM1, DM2, DM3, DM4, DM8, DM14, DM15, DM16, DM27 Local Plan Part 3 (Development Management Policies) and the National Planning Policy Framework.

**Author and Contact for any more information**

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**Background Papers**

None

**File Reference**

17/01509/MFUL  
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**Circulation of the Report**

Cllrs Richard Chesterton  
Members of the Planning Committee