

## PLANNING COMMITTEE AGENDA - 28th February 2018

### Applications of a non-delegated nature

<u>Item No.</u>	<u>Description</u>
01.	17/01939/FULL - Erection of a dwelling at East View, Buller Road, Crediton. <b>RECOMMENDATION</b> Refuse permission.
02.	18/00033/HOUSE - Siting of 14 PV solar panels on plastic ground mounted consoles at Bullock Barn, Bradiford Farm, Morchard Road. <b>RECOMMENDATION</b> Grant permission subject to conditions.
03.	18/00063/HOUSE - Erection of a two storey extension and porch at 26 Greenaway, Morchard Bishop, Crediton. <b>RECOMMENDATION</b> Grant permission subject to conditions.
04.	17/01716/FULL - Reinstate access and farm track to agricultural land at Land at NGR 292482 101905, School Lane, Thorverton. <b>RECOMMENDATION</b> Grant permission subject to conditions.
05.	17/01751/FULL - Erection of 5 dwellings at Land at NGR 295748 103455, South of 5 Old Butterleigh Road, Silverton. <b>RECOMMENDATION</b> Grant permission subject to conditions and the signing of a S106 agreement to secure.
06.	17/01517/FULL - Erection of a dwelling and alterations to existing vehicular access at 27 Downeshead Lane, Crediton, Devon. <b>RECOMMENDATION</b> Refuse permission.
07.	17/01427/FULL - Change of use of agricultural land to domestic garden and retention of play/exercise equipment at Land at NGR 310904 109604 (The Shippens), Blackborough, Devon. <b>RECOMMENDATION</b> Refuse permission.

Application No. 17/01939/FULL

Grid Ref: 282850 : 100544

Applicant: Ms S Wilder

Location: East View  
Buller Road  
Credition  
Devon

Proposal: Erection of a dwelling

Date Valid: 29th November 2017



## **APPLICATION NO: 17/01939/FULL**

### **MEMBER CALL-IN**

Ward Member, Cllr Frank Letch called in the application to be determined by Planning Committee for the following reason:

To consider whether the proposed development of a new dwelling in a rear garden location is acceptable in terms of the local context given that Crediton Town Council have raised no objections to the application.

### **RECOMMENDATION**

Refuse permission

### **PROPOSED DEVELOPMENT**

The proposal is for the erection of a dwelling and alterations to existing car parking arrangements at East View, Buller Road, including the demolition of the existing single storey garage which sits in line with the main house and set back from the front boundary which is formed from a low level privet hedge with gated openings for the pedestrian and vehicular access.

To the north, the site shares a common boundary with Porthmear a dwelling house similar in design but with a narrower garden to the application site. To the south the site shares a common boundary with no's 1-5 Buller Road which comprise a terrace of 5 two storey dwellings that directly overlook the application site. To the west the site shares a common boundary with no.29 Churchill Drive which directly overlooks the application site. The site slopes slightly upwards from the rear elevation of the existing house (east to west) and gently downwards (north to south).

The site area is 400 square metres, and the proposal is for a single contemporarily designed dwelling which is designed with two wing sections with a connecting link in an H shaped format and providing 4 bedrooms and open plan living areas. The form is set on a plinth in order to manage the slope across the site. The footprint of the building is approximately 152 square metres. The new building stands a maximum of 4.2 metres above existing ground level. A small courtyard garden area is shown to the north of the linking section and access is to an external parking area (shown for two vehicles). The walls of the proposed dwelling are to be formed from larch cladding with power coated aluminium window and door units. No roof windows are proposed.

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

Plans and elevations  
Design and Access Statement  
Wildlife Trigger List

### **POLICIES**

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

COR2 - Local Distinctiveness  
COR15 - Crediton

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

AL/IN/3 - Public Open Space

AL/CRE/8 - Crediton Air Quality

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

DM1 – Presumption in favour of Sustainable development

DM2 - High Quality Design

DM8 - Parking

DM14 – Design of housing

DM15 Dwelling Size.

## **CONSULTATIONS**

Highway Authority - 8th December 2017 - No objection

CREDITON TOWN COUNCIL - NO OBJECTION subject to the following:

The drive being made up of a porous material

The provision of two parking spaces for the original house.

## **REPRESENTATIONS**

At the time of writing 4 objections have been received to the application, a summary of the points raised is set out below:

1. Buller Road is congested with on street car parking and the additional dwelling will lead to highway safety issues.
2. Concern about noise and disturbance whilst the house is being constructed.
3. The house design is out of character.
4. It will be positioned very close to the boundary with neighbouring properties, creating an oppressive environment for neighbouring occupiers
5. It is considered to be overdevelop of the plot
6. Concerns as to whether the additional sewerage can be managed.
7. Concerns about the use of a wood burner at the site.

## **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

The application site forms part of the garden curtilage to East View and the proposed layout secures access from the existing driveway which would continue into the site culminating in a hammerhead arrangement adjacent to the proposed dwelling and an area for parking directly adjacent to the rear elevation of no.29 Churchill Drive. At the entrance to the site there is a spur off from the driveway to a hardstanding area directly in front of the existing house which is required given the loss of the garage and part of the existing driveway that currently provides off street parking. The main determining factors in this application are:

- 1) Policy;
- 2) Layout, design, amenity and visual impact;
- 3) Impact on neighbours;
- 4) Highway safety/ Movement issues;
- 5) S106 obligations;
- 6) Local finance considerations; and
- 7) Planning Balance Other matters raised by the consultation.

## **1. Policy – location.**

The site is located within the settlement boundary of Crediton where small scale residential proposals are acceptable in principle in accordance with policy COR15. This policy must also be balanced against other policy requirements in relation to the Local Development Plan taken as a whole. Further policy considerations are dealt with below.

## **2. Layout, design, amenity and visual impact**

The site's relationship with the host dwelling is clearly shown on the submitted plans and as described above. The site has no frontage and presents directly to the neighbouring occupiers on all 3 sides. Being to the rear of the frontage property and located in its garden, it constitutes backland development.

The plans show a separation distance of just 0.6 – 0.9m between the proposed dwelling and the west and northern boundaries of the site which are marked by existing wall /fencing. A new fence is proposed to be erected between the remaining garden to East View and the plot, with 0.9m separation distance between the position of the dwelling and this new fence to the side. Accordingly, with the exception of a small courtyard garden of some approx. 5.0 x 5.3m, the proposed dwelling is located in very close proximity to fencing and a wall. Windows within these elevations serve not only bathrooms and utility, but also more importantly bedrooms /study and the lounge. Whilst in some instances other windows face the courtyard or towards the parking area, nevertheless, the very close proximity of the dwelling to 3 of the site boundaries is considered to lead to an oppressive and unacceptable living environment for the occupiers. Most of the side windows are of slit design, being either horizontal or vertical alignment.

The plans also indicate the parking to serve the proposed dwelling being located within approximately 2m of the lounge window, with little outside amenity space once the driveway and parking / turning area has been accounted for. This too leads to the sense of oppression and inadequate living conditions for the occupiers of the proposed dwelling.

Although the applicant has sought to reduce the impact of the proposal by designing a single storey form, the site area has no frontage and the overall house footprint and driveway arrangement takes up the majority of the garden space which would result in an intrusive and dominant arrangement in the rear garden pushing the development into very close proximity with the boundaries of the site. It is therefore considered that the application scheme represents an overdevelopment of the site creating an oppressive form of development, detriment to the living conditions of the occupiers.

The plans as submitted show a contemporary designed plan form with new walling to be formed from larchwood cladding. The design clearly does not reflect the local vernacular and this has been noted by local stakeholders. Whilst the design is considered interesting and it is noted that it will not be readily seen within the street scene along Buller Road, these views do not override the concerns as outlined above. Overall it is considered that whilst the design of the application scheme in terms of its contemporary style would not match the surrounding properties, it is not in itself not considered to be grounds for refused. The contemporary design, in relation to its surroundings would read as very different, but would not be visually prominent from public vantage points.

The space standards set out at policy DM15 have now been superseded by the Technical housing standards - nationally described space standard issued in March 2015 and which set a

size range of a 117 sqm for a single storey, 4 bedroom property. The proposals exceed this requirement.

The subdivision of the existing garden of East View would significantly reduce the outdoor amenity space available to that dwelling. The proposed new fence that would subdivide the properties would be located some 7.5 – 8.5m from the rear of that existing property. Accordingly the proposals are not considered to incorporate any meaningful external space for the future occupiers and to significantly compromise the amenity space available to the host dwelling.

In summary given the site's size constraints and the proposed dwelling's relationship with the existing and proposed boundaries, the development of a single dwelling as shown on the submitted plans is considered to present an overdevelopment of the rear garden area of East View presenting as overly cramped, oppressive dwelling with limited outdoor amenity space and delivering living conditions for the proposed occupiers. On this basis the application would be in conflict with the policies in the development plan (COR2a, DM2 and DM14).

### **3. Impact on neighbours**

Policy DM2 sets out that new development should respect the privacy and amenity of neighbouring residents.

As stated above the site sits in a relatively constrained position with the both host dwelling and more importantly the immediate neighbours to the site. Given the scope of the scheme design (single storey) and fenestration details as proposed it is not considered that the application will readily result in opportunities for overlooking of the neighbouring properties in terms of window to window relationship. However given the scale of the footprint of the building, its proximity to the site boundaries and the fact that there is no demonstrable buffer between the proposed building the site boundaries it is considered that the change from a garden area to a building plot would also result in the creation of a cramped, oppressive environment for the neighbours to the site, contrary to their amenity and enjoyment of their gardens. This unacceptable relationship with the surrounding dwellings is another reason why the application is considered to be contrary to policies DM14 and DM2.

### **4) Highway safety and parking**

The proposal does not affect the existing arrangement in terms of the vehicular access from the highway, albeit the use of it will be intensified to accommodate the journeys associated with vehicles from 2 properties instead of 1.

The layout identifies 2 new spaces to serve the existing dwelling directly to the front of the house to replace those lost. The plans indicate that the provision of two spaces would be squeezed onto the front garden area which although not an ideal solution would not be a reason to refuse the application as the current owners could create an area of hardstanding for parking in this location without requiring express consent (i.e. as permitted development). However the layout of two further spaces to serve the new dwelling as proposed adds to the reason as to why the application will result in an oppressive environment for neighbouring occupiers.

It is noted that Devon County Council have not raised an objection in terms of the intensification of use of the access, however given that overall the proposed car arrangements are considered unacceptable it is considered that the application scheme would be in conflict with policies DM2, DM8 and DM14.

## **5) S106 obligations**

Policy AL/IN/3 of the AIDPD concerns requirements for the provision of public open space and play areas that apply to all new residential development. The supplementary planning document entitled "The Provision and funding of Open Space through Development" sets out the level of contribution required to meet this increased demand on public services.

Policy AL/CRE/8 concerns requirements for the provision of an off- site financial contribution towards funding improvements which seek to address air quality within the Crediton Air Quality Management Area. The SPD as referred above sets out the relevant contributions levels arising from new residential development as is the case with this application.

In accordance with these policies and the relevant guidance in the supporting Supplementary Planning Documents on the provision and funding of open space and Air Quality and development financial contributions of £1442.00 and £4434.00 respectively would be required. These policy requirements would need to be addressed in advance of planning permission being granted in the event that the officer recommendation is not supported by the Committee. Reasons for refusal 2 and 3 are included to cover these issues to the current absence of such payments or legal obligation to do so.

## **6) Local finance considerations**

With the introduction of the Localism Act 2011, the receipt of New Homes Bonus monies is a material consideration in the determination of planning applications. If New Homes Bonus is distributed across the Council Tax bands in the same way as last year, the award for the market house is estimated to be £1,028 per year over 5 years. The potential receipt of these monies is a positive aspect of the proposal but the weight attributed to this consideration is not considered to outweigh the policy objections as clarified above.

## **7) Conclusion & Planning Balance:**

Having completed the assessment of the application as stated above, the application scheme is not considered to be supportable by the policies in the development plan and is recommended for refusal.

## **REASONS FOR REFUSAL**

1. In the view of the Local Planning Authority the proposed new house, associated driveway way and parking area because of the overall design, including; siting, size, layout, inadequate provision of garden space and relationship with the neighbouring properties will lead to the introduction of an intrusive and dominant form of development in this back garden location resulting in the overdevelopment of the plot with inadequate amenity /living conditions for future occupiers and the creation of an oppressive environment for both the neighbouring occupiers and future occupiers of the host dwelling On this basis the proposal is therefore considered to be contrary to the requirements of policies COR2 (Local Plan 1), DM1, DM2, DM8 and DM14 of the Local Plan part 3 (Development Management Policies).
2. The application proposals do not make provision for public open space on site, nor make a contribution towards the provision off site. The development is therefore contrary to Policy AL/IN/3 of the Allocations and Infrastructure Development Plan Document (Local Plan Part

2), and Supplementary Planning Document: The provision and Funding of Open Space through Development (May 2008).

3. The application proposals do not include a contribution towards the implementation of the Council's Air Quality Action Plan and therefore does not mitigate the impact of the proposal upon air quality. The development is therefore contrary to Policy AL/CRE/8 of the Allocations and Infrastructure Development Plan Document (Local Plan Part 2), and Supplementary Planning Document on Air Quality and development (May 2008).

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

Application No. 18/00033/HOUSE

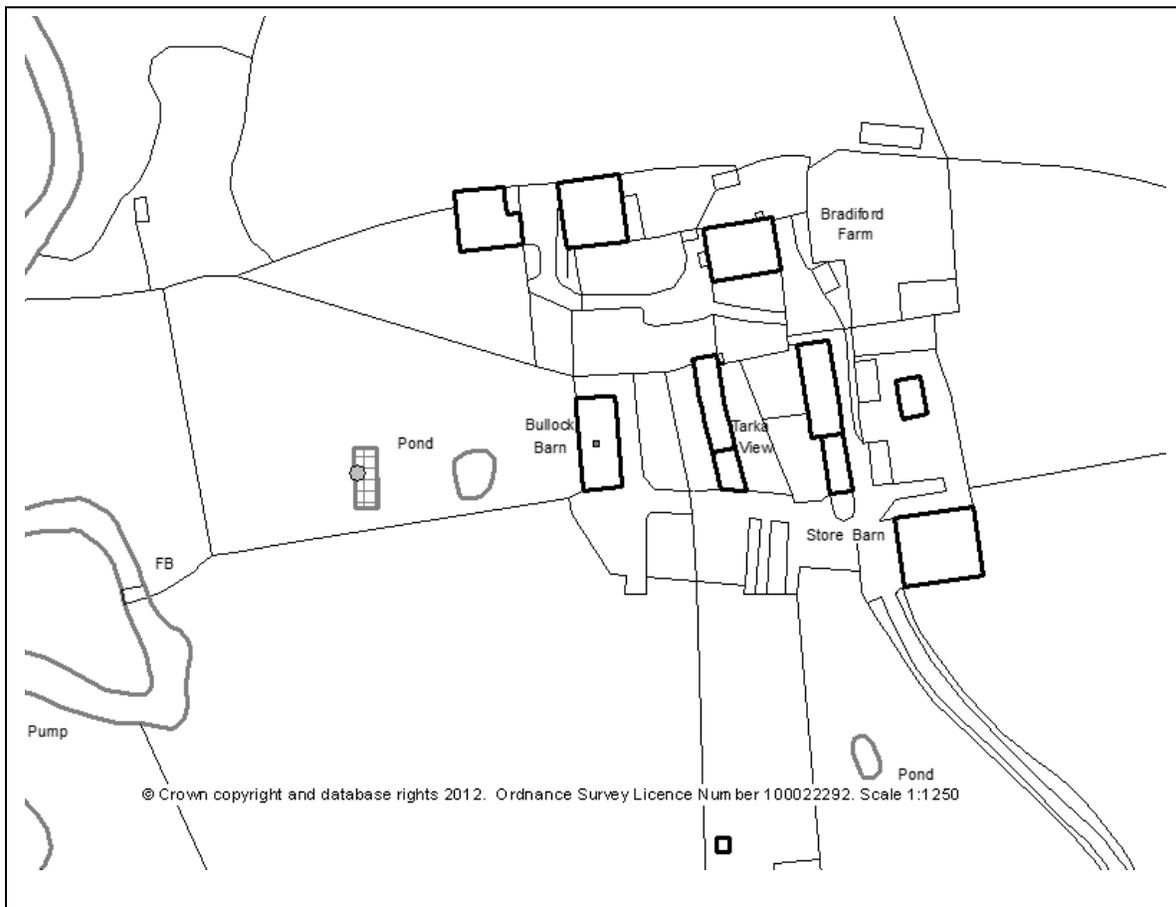
Grid Ref: 273666 : 105992

Applicant: Mr Phillip Leach

Location: Bullock Barn  
Bradiford Farm  
Morchard Road  
Crediton

Proposal: Siting of 14 Renusol Console Mounting Bins with PV Solar Panels

Date Valid: 16th January 2018



## **APPLICATION NO: 18/00033/HOUSE**

### **RECOMMENDATION**

Grant permission subject to conditions

### **PROPOSED DEVELOPMENT**

Siting of 14 PV solar panels on plastic ground mounted consoles at Bullock Barn, Bradiford Farm, Morchard Road. The site is located in the countryside to the north west of Morchard Road and is accessed via a shared lane which adjoins the A377 approximately 900m to the south east of the site. Bradiford Farm is a grade II listed farmhouse. To the front (south) there are three traditional barns that have been converted to provide dwellings. Bullock Barn forms the most westerly of these barn conversions and is sited furthest from the listed building, however is still considered to be curtilage listed. To the south of the dwelling there is a hardstanding parking area and to the west is the main garden area associated with the dwelling.

The application seeks consent to site 14 solar panels on plastic ground mounted consoles at the western edge of the curtilage. Individually, each panel is 1.6m long, 0.94m wide, 0.25m high at the front and 0.58m at the rear.

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

Site location plan and elevations

Panel specification

### **RELEVANT PLANNING HISTORY**

**00/00102/FULL** - PERMIT date 30th April 2000

Conversion of barn to a dwelling

**00/00103/LBC** - PERMIT date 30th April 2000

Listed Building Consent for the conversion of barn to a dwelling

**03/01658/FULL** - REFUSE date 28th August 2003

Erection of agricultural storage building

**98/01788/FULL** - PERMIT date 15th April 1999

Conversion of three barns into five dwellings and improvements to visibility splays at entrance onto A377

**98/01871/LBC** - PERMIT date 15th April 1999

Listed Building Consent for the conversion of three barns (within the curtilage of a Listed Farmhouse - Grade II) to five dwellings

**03/05444/FULL** - PERMIT date 16th December 2003

Erection of new shed to store agricultural equipment.

### **DEVELOPMENT PLAN POLICIES**

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

COR2 Local Distinctiveness  
COR5 Climate Change  
COR18 Countryside

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

DM1- Presumption in favour of sustainable development  
DM2- High quality design  
DM5- Renewable and low carbon energy  
DM13- Residential extensions and ancillary development  
DM27- Development affecting heritage assets

### **CONSULTATIONS**

HIGHWAY AUTHORITY- 30<sup>th</sup> January 2018- standing advice.

The consultation period for statutory consultees does not expire until 13<sup>th</sup> February; any further responses will be reported to Planning Committee by way of an update.

### **REPRESENTATIONS**

The public consultation does not expire until 23<sup>rd</sup> February; any representations will be reported to Planning Committee by way of an update.

### **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

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

1. Policy and the principle of providing solar panels in this location
2. Impact on the setting of the heritage assets
3. Other matters

#### **1. The principle of providing solar panels in this location**

The site is located in the countryside where policy COR18 of the Mid Devon Core Strategy (Local Plan part 1) seeks to restrict development to enhance the character, appearance and biodiversity of the countryside while promoting sustainable diversification of the rural economy. It provides in principle policy support for renewable energy installations.

Policy DM5 of the Local Plan part 3 (Development Management Policies) and the NPPF require the benefits of renewable energy to be weighed against its impact. DM5 states that proposals for renewable energy will be permitted where they do not have significant adverse impacts on the character, amenity and visual quality of the area. The NPPF states that when determining planning applications, Local Planning Authorities should not require applicants to demonstrate the overall need for renewable energy and recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions. Local Planning Authorities should approve applications for renewable energy if its impacts are (or can be made) acceptable.

#### **2. Impact on the character and appearance of the area and the setting of the heritage assets**

The solar panel installation proposed is of a domestic scale located at the edge of the curtilage of an existing dwelling house. The area that the panels are proposed to be located is to the west of the dwelling on an area of rough grassland, approximately 45m from the dwelling and approximately 80m from the principal listed building.

The site is relatively remote and views from public vantage points are not easily achievable. Views from the north are screened by virtue of the rising topography and to the south by the wooded area along the valley bottom. Whilst there may be long distance views towards the site given the overall height and scale of the panels they will not be prominent in terms of their visual impact. On this basis it is not considered that the siting of the panels would result in harm to the character and appearance of the rural area.

The panels will be located at the edge of the garden area associated with the curtilage listed barn conversion. Policy DM27 requires development proposals affecting heritage assets to respect their character, setting, significance and local distinctiveness, considering opportunities to enhance the asset. The panels will be sited sufficient distance from the listed building, which in addition to their scale, reduces the impact they have upon its setting. On this basis it is considered that the proposal sufficiently respects the character, setting and significance of the heritage asset. Listed building consent is not required.

Overall the proposal is considered to adequately respect the character, setting and significance of the heritage assets and will not result in any significant adverse impacts on the character, amenity and visual quality of the area in accordance with policies DM5 and DM27 of the Local Plan part 3 (Development Management Policies).

### **3. Other matters**

By virtue of the scale of the solar array and the screening providing by intervening buildings it is not considered that the proposal would result in any significant adverse impacts to the amenity of neighbouring occupiers.

Given the scale and nature of the installation it is considered unlikely that the proposal would result in any adverse impacts on wildlife interests at the site.

It is not considered that there are any other material planning considerations that would mitigate against the grant of planning permission and therefore the application is recommended for approval in accordance with policies COR18, DM5 and the NPPF.

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

The provision of renewable energy installations is supported in principle by policy COR18, DM5 and the National Planning Policy Framework. The proposed installation is of a domestic scale and the height and scale of the individual panels is modest. As such the panels will not be visually dominant, furthermore screening is provided from wider views by intervening topography and wooded areas. The proposal will not result in any significant adverse impacts on the character, amenity and visual amenity of the rural area. By virtue of the siting and scale of the proposed installation it is considered that it sufficiently respects the character, setting and significance of the heritage asset. The proposal would not result in harm to the amenity of any neighbouring properties. Overall the proposal is considered to be acceptable in accordance with policies COR2 and COR18 of the Mid Devon Core Strategy (LP1), DM2, DM5, DM13 and DM27 of the Local Plan part 3 (Development Management Policies) and government advice in 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 Photovoltaic Array hereby approved, shall be used only for the production of electricity. On its becoming redundant for such purpose, it shall be demolished, and all materials resulting from the demolition shall be removed from the site, within 6 months of the date this occurs.

## **REASONS FOR CONDITIONS**

1. In accordance with the provisions of Section 51 of the Planning and Compulsory Purchase Act 2004.
2. For the avoidance of doubt and in the interests of proper planning.
3. To safeguard the character and appearance of the listed building in accordance with policies DM2 and DM27 of the Local Plan part 3 (Development Management Policies).

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

Application No. 18/00063/HOUSE

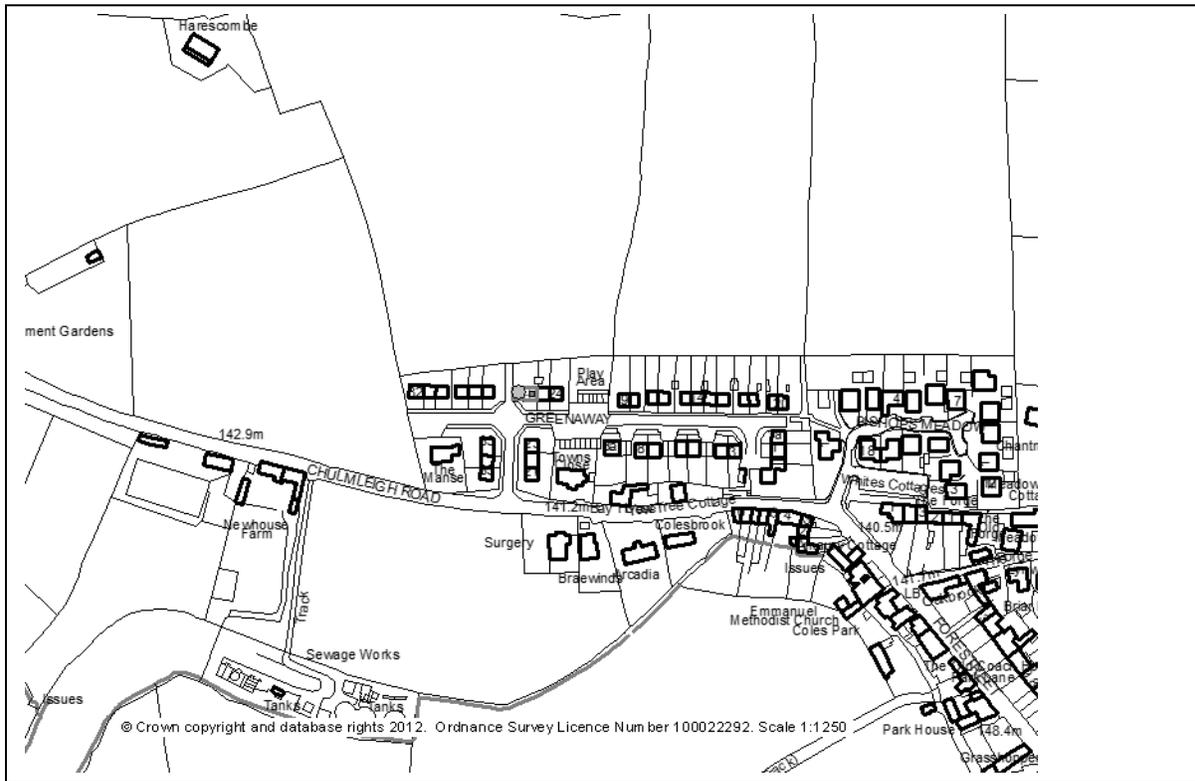
Grid Ref: 276634: 107821

Applicant: Ms Godden & Mr Atkinson

Location: 26 Greenaway  
Morchard Bishop  
Credton  
Devon

Proposal: Erection of a two storey extension

Date Valid: 12th January 2018



## **APPLICATION NO: 18/00063/HOUSE**

### **RECOMMENDATION**

Grant permission subject to conditions.

### **PROPOSED DEVELOPMENT**

Erection of a two storey extension and porch at 26 Greenaway, Morchard Bishop. This is an end terrace, two storey property located within a small residential cul-de-sac in Morchard Bishop. The property has a painted render appearance although the side gable is clad in stone, the roof is tiled with solar panels, the windows are of white uPVC. To the front there is a small flat roof canopy over the front door. The dwelling is set back from the highway with a garden area to the front, side and rear. Pedestrian access is obtained to the front, no off road parking or vehicular access is provided to the dwelling curtilage.

The application seeks consent for the erection of a two storey side extension to provide additional living space (snug and dining area) at ground floor level and a fourth bedroom with en-suite at first floor level. The proposed extension will occupy the area between the side of the dwelling and the west boundary of the plot. It will protrude to the side of the dwelling by 5m and will occupy almost the whole depth of the dwelling. In terms of appearance, the extension will have a tiled roof, render walls and uPVC windows.

The scheme also proposes to erect a lean to style porch which will replace the existing canopy to the front door. The proposed porch will be 2.2m wide by 2.4m deep, 3.3m high to ridge and 2.2m to eaves.

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

Site location and elevation plans  
Wildlife trigger sheet  
Surface water strategy

### **RELEVANT PLANNING HISTORY**

None.

### **DEVELOPMENT PLAN POLICIES**

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

COR2- Local Distinctiveness  
COR17- Villages

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

DM1- Presumption in favour of sustainable development  
DM2- High quality design  
DM13- Residential extensions and ancillary development

### **CONSULTATIONS**

HIGHWAY AUTHORITY- 23<sup>rd</sup> January 2018- standing advice applies.

MORCHARD BISHOP PARISH COUNCIL- 6<sup>th</sup> February 2018- unanimously supported.

## **REPRESENTATIONS**

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

## **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

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

1. Policy
2. Impact on the character and appearance of the host dwelling and street scene
3. Impact on the amenity of neighbouring occupiers

### **1. Policy**

Policies DM2 and DM13 require high quality design and extensions that respect the character, scale, setting and design of existing dwellings; will not result in overdevelopment of the dwelling curtilage; and will not have a significantly adverse impact on the residential amenity of the occupants of neighbouring properties.

### **2. Impact on the character and appearance of the host dwelling and street scene**

The existing dwelling is not of any particular architectural or historic merit but reflective of the surrounding development. The property is situated opposite the entrance road into the estate and is therefore prominent in the street scene, the extension will be clearly visible on approach into the estate. The scheme has been designed such that the extension reflects the appearance of the host dwelling, the ridge line is set below that of the main dwelling and it is set back slightly from the front elevation which will help it appear subservient. The proposed porch is of a modest scale and reflects the character of the main dwelling.

Although the extension occupies a substantial area to the side of the dwelling, garden area will be retained to the rear of the property and it is not considered that the proposal would result in overdevelopment of the dwelling curtilage.

Overall it is considered that the proposed extension and porch would respect the character, scale, setting and design of the existing dwelling and is in keeping with the wider street scene.

### **3. Impact on the amenity of neighbouring occupiers**

Given the siting of the proposed two storey extension it is not considered that it would result in any significant adverse impacts to the amenity of occupiers of the adjoining property (to the east). The extension projects towards the side elevation of no. 27 to the west of the site. The arrangement of that property mirrors the site such that it is set back from the side boundary; there is a track between the properties providing access to the field at the rear. The side elevation of the neighbouring property has no windows and furthermore the boundary to that property is formed by evergreen planting which screens views between the properties. The proposed extension does not include windows at first floor level in the side elevation, at ground floor level there are two high level windows providing limited outlook. Overall given the siting, scale and design of the proposed extension it is not considered that it would result in significant harm to the amenity of neighbouring occupiers.

Given the scale and siting of the proposed porch it is not considered that this element of the scheme would result in any significant adverse impacts to the amenity of neighbouring occupiers.

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

The application for the erection of a two storey extension and porch is considered to be supportable in policy terms. The design of the proposed development is considered to respect the character, scale, setting and design of the existing property. Whilst it will be visible within the street scene it is in keeping with the character and appearance of the surrounding properties. There are no concerns regarding overdevelopment of the dwelling curtilage. Given the siting and design of the extensions it is not considered that they would result in any significant adverse impacts to the amenity of any neighbouring properties. Overall the proposal is considered to be acceptable in accordance with policies COR2 and COR17 of the Mid Devon Core Strategy (LP1), DM1, DM2 and DM13 of the Local Plan part 3 (Development Management Policies) and government advice in the NPPF.

### **CONDITIONS**

1. The development hereby permitted shall be begun before the expiration of three years from this permission.
2. The development hereby permitted shall be carried out in accordance with the approved plan listed in the schedule on the decision notice.
3. The external finishes of the development hereby permitted shall match in material, colour, style, bonding and texture those of the existing building.

### **REASONS FOR CONDITIONS**

1. In accordance with provisions of Section 51 of the Planning and Compulsory Purchase Act 2004
2. For the avoidance of doubt in the interests of proper planning.
3. To ensure the use of materials and detailing appropriate to the character and appearance of the building in accordance with Mid Devon Core Strategy (Local Plan Part 1) Policy COR2 and Local Plan Part 3: (Development Management Policies) Policies DM2 and DM13.

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

Application No. 17/01716/FULL

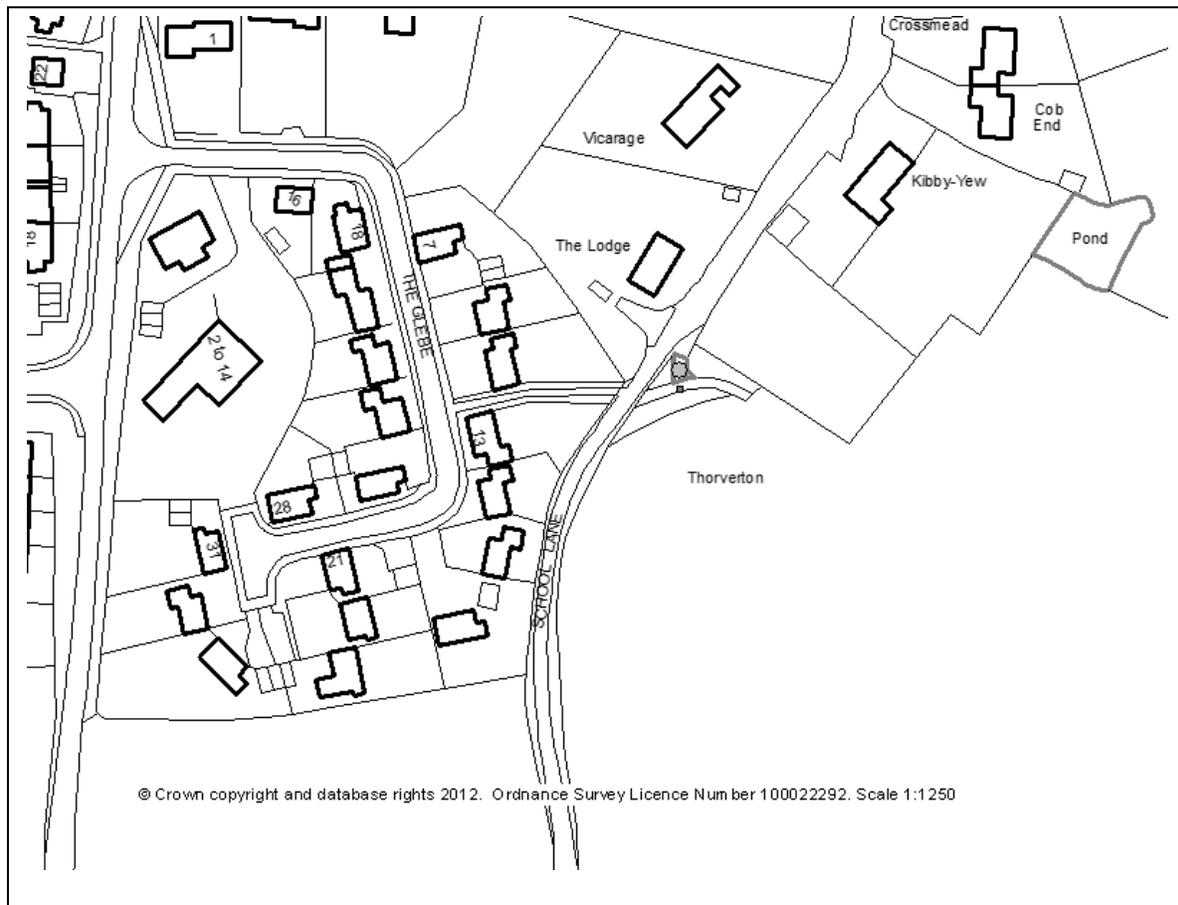
Grid Ref: 292482 : 101905

Applicant: Mr Richard Parr

Location: Land at NGR 292482 101905  
School Lane  
Thorverton  
Devon

Proposal: Reinstate access and farm track to agricultural land

Date Valid: 19th October 2017



## **APPLICATION NO: 17/01716/FULL**

### **MEMBER CALL-IN**

The Ward Member, Cllr Bob Deed has requested that the application be determined by the Planning Committee for the following reason:

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

### **RECOMMENDATION**

Grant permission subject to conditions

### **PROPOSED DEVELOPMENT**

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

The new access proposed would be 3.7m wide having a 10m radii with the access to the south being 3m wide with a new chamber and channel drainage to a soakaway to be installed across the two accesses to prevent surface water runoff into the lane. From the lane to the drainage channel, both accesses would have a concrete surface. An area of the existing bank would be lowered [a minimum distance of 2m from the carriageway edge] to create a grass verge to improve visibility along the frontage, with a visibility splay of 2.5m by 25m in either direction achieved from the new access. A new retaining wall would be constructed, block faced with random rubble and the existing traffic sign would also be relocated slightly further north.

The site is located outside, but adjacent to Thorverton Conservation Area, the edge of which is located on the opposite site of the road.

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

Completed application for  
Location Plan, Block Plan, Layout Plan and elevation  
Agricultural Justification Letter

### **RELEVANT PLANNING HISTORY**

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

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

### **DEVELOPMENT PLAN POLICIES**

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

COR1 - Sustainable Communities

COR2 - Local Distinctiveness

COR9 - Access

COR17 - Villages

COR18 – Countryside

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

DM1 - Presumption in favour of sustainable development

DM2 - High quality design

DM22 – Agricultural development

DM27 - Development affecting heritage assets

## **CONSULTATIONS**

Thorverton Parish Council - 9th November 2017

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

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

Highway Authority - 8th February 2018

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

Highway Authority - 9th November 2017

Observations:

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

- Both accesses should remain open if consent is granted.
- The applicant would need to demonstrate access gradients for both the new and existing access of 1 in 10 maximum
- The access is hard surfaced in Tarmac or Concrete for the first 10.0m
- Visibility splays are provided with no obstruction greater than 600mm above the existing road surface taken from a point 2.4m back along the centre line of both accesses and extending to a point 25.00m to the north and 25.0m to the south,

- The access will need to demonstrate suitable drainage so as to prevent surface water, and detritus entering the public highway.
- Position of the relocated signage so that is visible to oncoming drivers for a distance of 25.0m and does not present an obstruction to visibility.

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

Recommendation:

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

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

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

## **REPRESENTATIONS**

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

Application form and plans submitted:

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

Need for access:

- The applicant is named on a planning application approved by East Devon District Council as working under contract to grow bio feed to fuel an Anaerobic Digester located near Clyst St Mary. Land as Yellowford is identified as generating 1,530 tonnes of crop and in turn taking back 1,170 tonnes of digestate in order to "fertilise" the fields. These activities generate at least 350 journeys by tractor and trailer across narrow lanes. These journeys would be re-routed to the north, past the primary school and through the middle of the village whereas they have been successfully delivered in the past using the existing exits to the South down School Lane towards Brampford Speke & Exeter.
- Other accesses have been opened up along School Lane (some without permission) to allow the large scale farm machinery to enter the field.

- It will not improve road safety as all crop harvested this year from the whole plot (including this field) has all gone south down School Lane. It is understood that not one load has completed a 3 point turn at Yellowford and returned through the village.
- The current owner has successfully operated all types of large agricultural machinery using the current access since acquiring the land over 4 years ago without apparent inconvenience.
- Why would the landowner wish to add over 4 miles each way to a journey to his home farm while needing to negotiate a very tight turn in the centre of a village?

#### Practicability of access:

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

#### Highway Safety:

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

milk tankers; these navigate the corner between Bullen Street and School Lane only with difficulty, and have a history of causing damage to cobble, kerbs and pavements.

Impact on Heritage Assets:

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

Impact on the environment:

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

Potential use of access for future residential development:

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

## **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

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

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

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

This is a planning application which the applicant outlines is to reinstate an access and farm

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

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

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

Policy COR1 of the Mid Devon Core Strategy [Local Plan Part 1] seeks sustainable growth which enhances the self-sufficiency of communities and provides access to education, jobs and sustainable transport. It seeks to provide accessible forms of development that reduce the need to travel by car and are integrated with public transport and other sustainable modes of travel and allow for ease of movement. Policy COR2 requires development to sustain the distinctive quality, character and diversity of Mid Devon's environmental assets through high quality sustainable design which reinforces the character and legibility of Mid Devon's built environment and creates attractive places. Policy COR18 seeks to control development outside defined settlement limits to appropriate rural uses and COR17 relates to the development types acceptable for villages such as Thorverton.

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

## **2. Justification for the development.**

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

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

- d) The development will not have an unacceptable traffic impact on the local road network.

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

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

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

### **3. Highway matters and highway safety.**

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

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

On this point, whilst these comments are noted from objectors, it is considered that the case can be made that this access would be beneficial to the farming enterprise of the applicant given that they farm land in the Shobrooke area whereby it would be logical for them to be able to travel north from this site through the village or vice versa. Movements which can currently take place but requiring the turning of vehicles further south along School Lane. The applicant's agent has noted there is currently access to the field from the public highway and currently no

restriction on transport movements and that this application seeks to improve the health and safety aspect of the field entrance and is required given that there are no existing farm buildings on site.

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

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

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

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

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

## **5. Drainage provision.**

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

## **6. Other matters.**

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

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

## **CONDITIONS**

### **1. CD1          Time limit – full**

The development hereby permitted shall be begun before the expiration of three\* years from the date of this permission.

### **2. CD7          Approved Plans**

The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice.

### **3. CL2          Implementation of landscaping scheme as submitted**

All planting, seeding, turfing or earthworks (including construction of a retaining wall block faced with random rubble) comprised in the approved details of hard and soft landscaping as shown on the submitted plans, shall be carried out within 9 months of the substantial completion of the development, (or phase thereof), whichever is the sooner; and any trees or plants which within a period of five years from the implementation of the scheme (or phase thereof), die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species. Once provided, the landscaping scheme shall be so retained.

4. Prior to its first use on site, a sample of the proposed stone to be used for the proposed random rubble wall shall be submitted to and approved in writing by the Local planning Authority and no other stone shall be used.

5. CH1 Access Gradient 1:10

No part of the access drive hereby approved shall be laid out at a gradient steeper than 1 in 10 for the first 8 metres back from the edge of the highway carriageway.

6. CH12 Prevention of surface water onto highway

The surface water drainage of the site shall be designed as to prevent the discharge of surface water onto any highway, with the drainage measures outlined on the layout plan and plan of the gateway received on the 7th February 2017 implemented in full and retained in that condition thereafter.

## **REASONS FOR CONDITIONS**

1. RD1 Planning & Compulsory Purchase Act 2004

In accordance with the provisions of Section 51 of the Planning and Compulsory Purchase Act 2004.

2. RD7A Proper Planning

For the avoidance of doubt and in the interests of proper planning.

3. RL2 Ensure development makes positive contribution

To ensure that the development makes a positive contribution to the character and amenity of the area in accordance with policies policy DM2, DM22 and DM27 of the Local Plan Part 3: (Development Management Policies).

4. To safeguard the character and appearance of the locality including the adjacent Conservation Area in accordance with policies DM2, DM22 and DM27 of the Local Plan Part 3: (Development Management Policies).

5. RH1 Interests of highway safety

In the interest of highway safety in accordance with Policy DM2 and DM22 of the Local Plan Part 3: (Development Management Policies).

6. RH9 Prevention of surface water onto highway

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

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

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

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

Application No. 17/01751/FULL

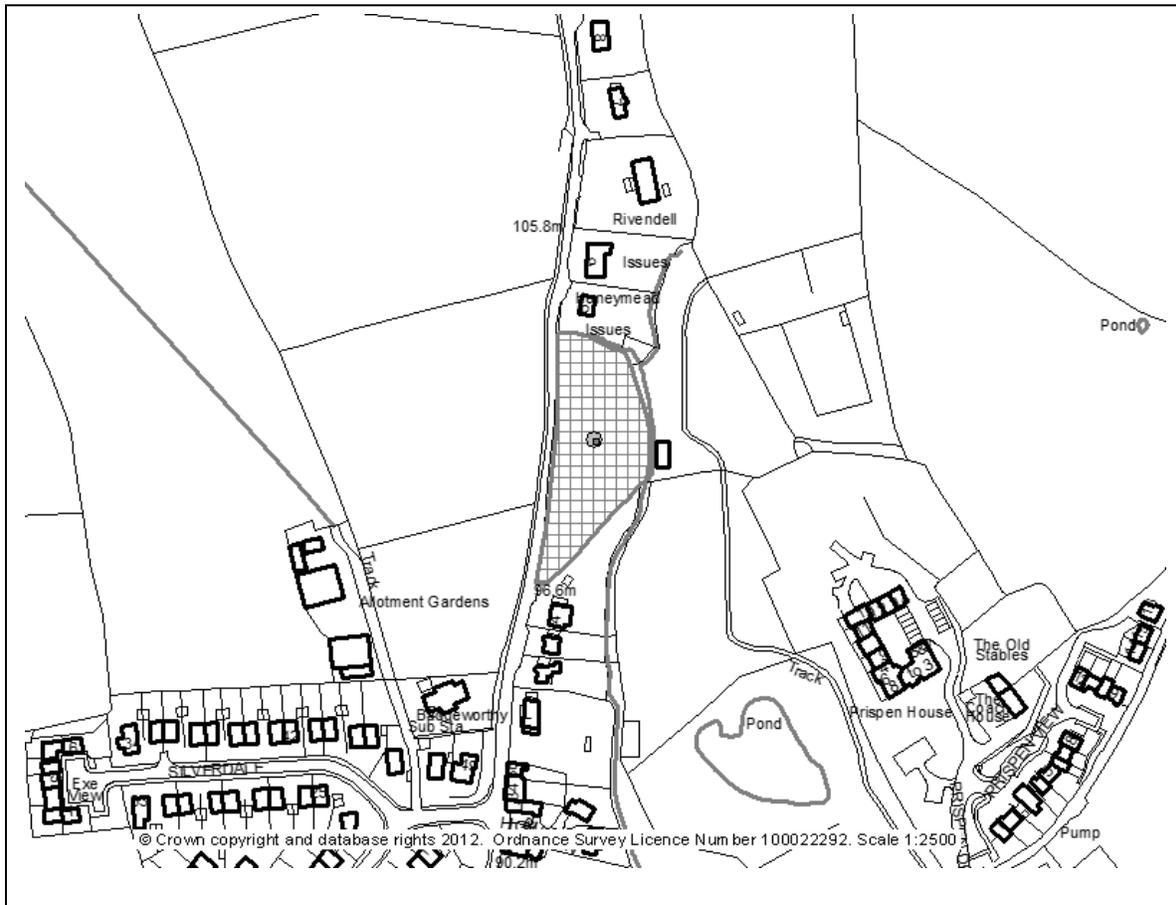
Grid Ref: 295748 : 103455

Applicant: Pemberton Hutton Developments Ltd

Location: Land at NGR 295748 103455  
South of 5 Old Butterleigh Road  
Silverton  
Devon

Proposal: Erection of 5 dwellings

Date Valid: 31st October 2017



## **APPLICATION NO: 17/01751/FULL**

### **MEMBER CALL-IN**

The Ward Member Cllr Jenny Roach has requested that this application be determined by Planning Committee to consider:

- Whether the application is overdevelopment of the site given issues of drainage and highway access.
- Whether there is a lack of parking on the highway for delivery vehicles etc.
- Whether the design of the houses is in keeping with any other building in that area or even the village.
- Whether it is a prominent site when viewed from the other side of the village and if the proposals will have an overbearing effect on the area as a whole.

### **RECOMMENDATION**

Grant permission subject to conditions and the prior signing of a S106 agreement to secure financial contributions towards public open space, education provision

### **PROPOSED DEVELOPMENT**

The planning application seeks planning permission for the erection of five dwellings. The five dwellings are all two storey, being a mix of 3 and 4 bedroom properties having a contemporary design using render, vertical timber cladding and a low level brick plinth throughout the proposed development. Each property would have an area to park two vehicles and a garage, with three new accesses created from the lane on to the site. The area to the east of the site has been retained to serve as an ecology mitigation zone, providing a higher value environment for foraging and commuting of dormice. The original submission was for six dwellings but given the required ecological mitigation in respect to dormice and on site surface water drainage measures to be provided; this has resulted in the removal of one dwelling, reducing the scheme down to five dwellings.

Whilst the proposals would provide three new access points and the provision of a grass verge to the front of the site in part to allow as a pedestrian refuge area for those walking into the village centre of Silverton, the proposals include the retention and provision of hedgerow fronting Old Butterleigh Road in order to maintain the country lane character. As a result of the amendments, the maintenance access for the ecological mitigation area to the east is relocated using the existing field gate and the southern hedge boundary to the new plot 1 has moved south approximately 5m. The overall total ecology mitigation area would be approximately 880m<sup>2</sup> (not accounting for drainage area). The applicant would retain ownership of this land, but a management company would be set up to manage the drainage attenuation.

The site is located outside, but close to the boundaries of the village settlement limit and conservation area. The submitted Local Plan Review proposes to allocate this site for residential development (8 dwellings) under draft policy S11 old Butterleigh Road.

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

Completed application form and accompanying plans/drawings

Design and Access Statement  
Highway Access Statement  
Ecological Appraisal  
Dormouse Mitigation Report  
Dormouse Presence Survey Report  
Geo-Environmental Desk Study Report  
Arboricultural Survey  
Surface Water Drainage Strategy & Flood Risk Assessment

## **RELEVANT PLANNING HISTORY**

91/01143/OUT - REFUSE date 16th August 1991  
Outline for the erection of residential development and construction of vehicular access

09/01762/FULL - REFUSE date 8th February 2010, APPEAL DISMISSED 3rd August 2010  
Erection of 6 bungalows together with new vehicular access

## **DEVELOPMENT PLAN POLICIES**

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

COR1 - Sustainable Communities  
COR2 - Local Distinctiveness  
COR3 - Meeting Housing Needs  
COR5 - Climate Change  
COR8 - Infrastructure Provision  
COR9 - Access  
COR11 - Flooding  
COR12 - Development Focus  
COR17 - Villages  
COR18 – Countryside

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

AL/DE/3 - Affordable Housing Site Target  
AL/IN/2 - Development without Community Infrastructure Levy  
AL/IN/3 - Public Open Space  
AL/IN/4 - Green Infrastructure  
AL/IN/5 - Education Provision

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

DM1 - Presumption in favour of sustainable development  
DM2 - High quality design  
DM7 - Pollution  
DM8 - Parking  
DM14 - Design of housing  
DM15 - Dwelling sizes  
DM27 - Development affecting heritage assets

## **CONSULTATIONS**

Silverton Parish Council – 27th December 2017

The Parish Council do not support the above application due to (a) concerns with regard to serious road safety issues (b) the loss of an historic hedgerow (c) concerns that the development could create flooding issues in Old Butterleigh Road and, as a result, also in High Street and Fore Street (d) overdevelopment of the site (e) parking issues with regard to additional cars visiting the site and (f) the site is not contained within the Local Plan. The Parish Council also ask that Mid Devon District Council confirm that it has made enquiries as to whether or not this site has been previously used as a burial site for animals with anthrax.

Silverton Parish Council – 6th February 2018

The Parish Council recommends refusal of the above application on the grounds the site in question is outside the existing Local Plan.

Environmental Health - 9th November 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 - No objection to these proposals

Housing Standards - No comment

Licensing - No Comments

Food Hygiene - Not applicable

Private Water Supplies - Not applicable

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

Natural England - 14th November 2017 - No comments.

Natural England – 30th January 2018

Natural England has previously commented on this proposal and made comments to the authority in our letter dated 14 November 2017. The advice provided in our previous response applies equally to this amendment although we made no objection to the original proposal. The proposed amendments to the original application are unlikely to have significantly different impacts on the natural environment than the original proposal.

Highway Authority - 9th November 2017 - Observations:

The Highway Authority has visited the site and has had pre-application discussions with regard to the proposal. The Highway Authority considers drawing number 170106L02/01/rev C is acceptable in terms of layout, parking turning, visibility and should be conditioned as such in addition to which the following conditions should be imposed.

Recommendation:

The Head of Planning, Transportation and Environment, on behalf of Devon County Council, as Local Highway Authority, recommends that the following conditions shall be incorporated in any grant of permission:

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

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

2. No part of the development hereby approved shall be commenced until details of the treatment of the visibility splays required have been submitted to and approved by the Local Planning Authority.

REASON: To ensure that the visibility splays are provided to a standard acceptable to the Local Planning Authority

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

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

Highway Authority - 16th January 2018

The Highway Authority has no further observations to make

MDDC Housing Options Manager - 3rd November 2017

Housing Need demand for Silverton extracted from Devon Home Choice as of Oct 2017.

Housing Need Silverton	BANDING				Grand Total
Bedroom Band	B	C	D	E	
1	1	1	9	1	19
2	2	1	2	7	12
3		3	2	1	6
4	1	1			2
Total	4	6	13	9	39

MDDC Housing Options Manager – 17th January 2018

Those either

Bedroom Band	B	C	D	Grand Total
1	2	1	8	11
2	3	1	3	7
3		3	1	4
4		1		1
Total	5	6	12	23

DCC Education - 10th November 2017

Regarding the above planning application, Devon County Council would need to request an education contribution to mitigate its impact. The proposed 6 family-type dwellings will generate an additional 1.5 primary pupils and 0.9 secondary pupils.

There is currently capacity at the nearest primary for the number of pupils likely to be generated by the proposed development. Devon County Council will however seek a contribution towards additional education infrastructure at the local secondary school that serves the address of the proposed development. The contribution sought is £19,728 [based on the DfE extension rate of £21,921 per pupil] which will be used to provide education facilities for those living in the development.

We would also require a contribution towards secondary school transport costs due to the development being further than 2.25 miles from Clyst Vale Community College. The costs required are as follows:

1 secondary pupil  
£2.68 per day x 1 pupil x 190 academic days x 5 years = £2,546

In addition to the contribution figures quoted above, the County Council would wish to recover legal costs incurred as a result of the preparation and completion of the Agreement. Legal costs are not expected to exceed £500.00 where the agreement relates solely to the education contribution. However, if the agreement involves other issues or if the matter becomes protracted, the legal costs are likely to be in excess of this sum.

Following re-consultation on a scheme for 5 dwellings:

DCC Education – 26th January 2018

The proposed 5 family-type dwellings will generate an additional 1.25 primary pupils and 0.75 secondary pupils.

There is currently capacity at the nearest primary for the number of pupils likely to be generated by the proposed development. Devon County Council will however seek a contribution towards additional education infrastructure at the local secondary school that serves the address of the proposed development. The contribution sought is £16,440 [based on the DfE extension rate of £21,921 per pupil] which will be used to provide education facilities for those living in the development.

We would also require a contribution towards secondary school transport costs due to the development being further than 2.25 miles from Clyst Vale Community College. The costs required are as follows:

1 secondary pupil  
£2.68 per day x 1 pupil x 190 academic days x 5 years = £2,546

In addition to the contribution figures quoted above, the County Council would wish to recover legal costs incurred as a result of the preparation and completion of the Agreement. Legal costs are not expected to exceed £500.00 where the agreement relates solely to the education contribution. However, if the agreement involves other issues or if the matter becomes protracted, the legal costs are likely to be in excess of this sum.

D.C.C. Flood Risk Management – 22nd January 2018

As discussed as a minor application we haven't been formally consulted. However I have taken a look at the Surface Water Drainage Strategy & Flood Risk Assessment (Ref: 0196, dated October 2017) as I note you have had some public representations regarding flooding with the immediate area surrounding the site.

The proposed strategy indicates that the site can be adequately drained through an appropriate attenuation based system restricting rates up to 2 l/s and 1.5 l/s I note that discharging to the watercourse for plots 2-6. Is plot 1 also discharging to this watercourse? The principle is based on below ground attenuation but given the constraints of the site this is an acceptable means of

disposal from the site. The proposed flows are acceptable and meet current standards for SuDS.

It is apparent looking at the consultation responses that the existing flood risk is associated with surface water flowing down the highway, the current site is a solid hedge line to the access at the lower end of the site. The proposals seek to have individual access for the drives, it would be prudent that these access prevent the ingress of this exceedance flows into the proposed properties and maintain the Status Quo.

Public Rights of Way Officer - 17th January 2018

I can confirm that the site is not affected by any Public Rights of Way shown on the definitive map and statement.

## **REPRESENTATIONS**

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

### Location/Density

- The site is located outside of the settlement limits of Silverton
- It represents over-development with no affordable houses for young villagers.
- The density of the development is a minor concern with 4 rather than 6 properties being better.
- It contributes to ribbon development of the village.

### Design

- The contemporary design of the houses is not in keeping with the historic part of Silverton, more akin to industrial units being out of character and detracting from the visual amenity of the area.
- Surrounding properties are more traditional in design with pitched roofs, many being bungalows and chalet bungalows.
- The amended scheme for five properties remains inappropriate for the location and also remains out of keeping with the neighbouring properties. The proposed plan still indicates the destruction and unnecessary removal of a large section of historic Devon bank.

### Highway Safety

- There would be an increase in traffic to the site along narrow roads through the village, leading to congestion, especially along High Street and Fore Street.
- A residential development of six dwellings would potentially increase vehicular traffic by at least six and possibly twelve on a country lane that is only one vehicle wide with no pedestrian protection and would result in further associated traffic through delivery services
- The Old Butterleigh Road is narrow, dark and susceptible to flooding and has pot holes and this development will exacerbate problems.
- Butterleigh Road will have to be widened to cater for two or more cars per household to access onto the lane.

- There would be significant disruption and disturbance from construction traffic and installation of services to the detriment of occupiers of residential property, pedestrians and highway users.
- There would be an increase of mud on road on the road from construction which would be a health and safety issue.

#### Drainage Issues

- Concerns over the potential effect of the water run-off from the 6 new houses with the associated hard landscaping on the stream which runs alongside the eastern border of the site which impact properties further down on Parsonage Lane and then into Davies close.
- The neighbouring properties have suffered from flooding from previous uses on this site and the north-eastern part of the site is indicated as a flood area OS plans.
- There needs to be a full analysis of the local soil condition and drainage as the hill on Old Butterleigh Road is the subject of continuous natural water running off the land from springs and the water table.
- There have been times in the last 30 years when High Street and Fore Street have become a fast running muddy torrent as a result of the pressure of water coming down the Old Butterleigh Road.
- The maintenance schedule for the system to control the run-off is indicative.
- There will be increased run-off problems from the front of properties.
- The land clearly has an important effect in controlling flooding further down in the village and feeds the stream at the rear of the site.
- If approved, a strict condition should be that there is a full hydrological investigation on the site and the effect of the proposals on the flow of:- a) the stream from the top of the site down to gardens of Hederman Close and b) on the flow of water on Old Butterleigh Road, High Street and Fore Street and other lower lying properties, such investigation to take into account a future 1 in 200 year event. This report and its recommendations are to be published before any work starts onsite so that residents of Silverton, with their extensive local knowledge, have time to further discuss the issue. Any proposed works of mitigation are to be completed by the developers prior to occupation of the first house. Furthermore a bonding agreement, possibly in the form of an S.106 agreement is to be legally enacted.

#### Conservation/Landscape

- The location is close to a conservation area and the development does not support the requirement to preserving or enhancing the character and appearance of the Conservation Area.
- This site is of historical importance and a historic dig should be allowed.
- The provision of a grass verge for pedestrians would not be possible without partly removing the ancient Devon Hedge fronting the site.
- The provision of a layby to accommodate servicing vehicles would further destroy the boundary hedge and there is no street lighting available on the lane.
- The removal of most of the historic hedge line on the western boundary would change forever the heritage of this section of the medieval ridge road that ran between Tiverton and Exeter.
- The map under Soft Works is unclear as willow and other trees have been cut down, so it is unclear from the key 'retained vegetation' what this refers to. Replacement screening between the plot 6 and the neighbouring property to the north is essential in addition to the retention of the currently remaining trees on the boundary Devon hedge.

- Confirmation is required that the area to the east of plot 6 is to be the responsibility of the property owners under a Covenant in the deeds and does not form part of the garden of plot 6 on the northern boundary.

#### Ecological/Biodiversity impacts

- The development of this site will have a detrimental impact on wildlife and plants.
- The hedge around the site contains a population of dormice. 'Devon represents something of a stronghold of the dormouse in Britain, and we therefore have a particular responsibility to ensure that the County continues to provide a home for this fascinating little mammal.' This is a quote from the Devon Biodiversity and Geodiversity Action Plan. It is impossible to believe that this development will not have a devastating effect of the dormice on the site.
- The development of this site requires the destruction of an ancient Devon bank, thus losing yet another country feature that supports natural wildlife, animal, bird and plants.
- Conservation measures for the dormice and other wild life habitat is to hopefully include the northern boundary.

#### Impact on amenity

- There would be overlooking of neighbouring property and land from the proposed dwellings
- There would be overlooking of a neighbouring property from the north facing windows on plot 6.
- The proposed building at the southern end of the site would dominate the neighbouring property, with the site being a metre and a half higher than the neighbour.

### **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

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

1. Policy and procedure
2. Adopted and emerging planning policy and 5 year housing supply;
3. Highways and highway safety
4. Design and appearance of development and visual impact on landscape
5. Living conditions of the occupiers of nearby residential properties
6. Flooding, drainage and site contamination
7. Ecology
8. Impact on Heritage Assets
9. S106 Obligations and local finance considerations
10. Sustainable development balance.

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

This is an application which relates to formerly an agricultural field and horticultural nursery, with the application site being approximately 0.4 hectares, situated on the northern edge of Silverton, adjacent to the Conservation Area. The site fronts directly onto Old Butterleigh Road, a single carriage road running north out of the village of Silverton, with a further six residential properties located to the north of this site when travelling along this country lane. Further to a residential property located directly north of the site, there is a residential property to the south with agricultural land to the east and west.

Having reviewed the planning history for the site, it was noted that a planning application for the erection of six residential units together with new access arrangements and associated works on this site [planning application 09/01762/FULL] was refused on the 8th February 2010 and later dismissed on appeal on the 3rd [reference APP/Y1138/A/10/2124263]. The conclusion of the inspector at that time was 'While I have found that the scheme would not have any significant adverse effect upon highway safety or trees and hedges, these considerations are greatly outweighed by the harm that would be caused by permitting a proposal that directly contravenes national and local planning policies concerning the location of sustainable development. For the reasons given above I conclude that the appeal should be dismissed.' The reason therefore given at that time was that the development would fail to meet the requirements of Policy COR 18 of the Core Strategy and Policy H7 of the Mid Devon Local Plan First Alteration 2006, in affect being development outside of the settlement limits.

Under the current local plan, the site is viewed as countryside in policy terms although the site is proposed for residential development (8 dwellings) in the MDDC Local Plan Review 2017 under Policy draft S11. Policy S11 describes that this 'site falls on the northern boundary of the village of Silverton and is on the eastern side of Old Butterleigh Road. The site is shielded to the north and west by high hedges which limit inward views.' In terms of development on the site, the supporting text states 'A small watercourse runs along the eastern boundary of the site and the small area of floodplain associated with this should not be developed. The carriageway will need to be widened across the site frontage to accommodate two passing vehicles. The footpath network terminates some distance to the south of the site. Rather than provide a new footway which does not connect with existing provision, a grass verge along the site frontage should be provided as defensible space for pedestrians.' As can be seen, the direction of travel is that this site should be developed for residential development, notwithstanding the previously refusal made eight years ago. However, until such time as the emerging local plan is adopted, only limited weight can be given to this policy.

S.38 [6] of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the Development Plan, unless material considerations indicate otherwise. The National Planning Policy Framework [the Framework], published by the Government in March 2012, is noted as one such material consideration. As the site is located outside of the settlement limits of Silverton, a key issue relates to the principle of the development for open market dwellings on this site as this proposal represents the creation of new dwellings outside the recognised settlement limits, being countryside in policy terms.

Paragraph 7 of the NPPF outlines the three dependent roles of sustainable development, being those of an economic, social and environmental role. It is considered that each role needs to be satisfied for a proposal to be considered a sustainable development. Paragraph 8 outlines the need to guide development to sustainable solutions. It is noted that the development is for five open market dwellings in an area where new unrestricted residential development is currently not supported by either national policy or policy COR18 of the Core Strategy. However the site adjoins the settlement limits of Silverton where there are existing facilities and services for residents to access.

In addition to the NPPF, the Local Authority needs to determine this proposal on the basis of a number of policies contained within the Development Plan. In this instance, the relevant policies are considered to include COR1 [Sustainable Communities], COR2 [Local Distinctiveness], COR3 [Meeting Housing Needs], COR5 [Climate Change], COR8 [Infrastructure Provision], COR9 [Access], COR11 [Flooding], COR12 [Development Focus], COR17 [Villages], COR18

[Countryside] of the Core Strategy and DM1 [Presumption in favour of sustainable development], DM2 [High quality design], DM7 [Pollution], DM8 [Parking], DM14 [Design of housing] and DM15 [Dwelling sizes] and DM27 [Development affecting heritage assets] of the Development Management Policies [Local Plan Part 3].

Policy COR1 of the Mid Devon Core Strategy [Local Plan Part 1] seeks sustainable growth which enhances the self-sufficiency of communities and provides access to education, jobs and sustainable transport. It seeks to provide accessible forms of development that reduce the need to travel by car and are integrated with public transport and other sustainable modes of travel and allow for ease of movement. Policy COR2 requires development to sustain the distinctive quality, character and diversity of Mid Devon's environmental assets through high quality sustainable design which reinforces the character and legibility of Mid Devon's built environment and creates attractive places. COR3 sets a District-wide target for new housing development and COR12 seeks to focus development in the most sustainable locations. Policy COR18 seeks to control development outside defined settlement limits to appropriate rural uses and COR17 relates to the development types acceptable for villages such as Silverton.

In light of the policies within the Core Strategy and Development Management Policies, the key issue to be considered in respect to this proposal is that of the principle of the development taking into consideration the adopted and emerging planning policy and 5 year housing supply including whether this would represent sustainable development. This matter and other planning considerations are considered further below.

## **2. Adopted and emerging planning policy and 5 year housing supply.**

The Government's commitment to a 'plan led' planning system is apparent throughout the NPPF. Paragraph 2 acknowledges the statutory presumption in favour of the development plan in section 38[6] of the Planning and Compulsory Purchase Act 2004, and the status of the NPPF as a material consideration. The NPPF states that full weight may be given to relevant policies adopted since 2004 [and in accordance with the Planning and Compulsory Purchase Act 2004] even if there is a limited degree of conflict with the NPPF. The policies described above have all been adopted since 2004, but at appeal in 2016, adopted housing policies have been found to not be up to date given the currently lack of 5 year housing land supply.

The development is on agricultural land and whilst the site lies in the countryside in planning terms, it lies adjacent the settlement limits boundary for the village of Silverton with further residential dwellings located to the north. The site is not allocated within the existing Local Plan for residential development but it is within the emerging local plan but this only has limited weight. As the development proposed is not for 100 percent affordable housing, the development would be considered to be contrary to policy COR18 of Mid Devon's adopted development plan. However, at appeal in 2016 the Authority was found not to be able to demonstrate a 5 year housing land supply and in the interim, that position has not changed substantially. The NPPF advises that where a five year land supply of deliverable housing sites cannot be demonstrated, policies on housing supply should not be considered up to date. This includes settlement limits identifying areas which are countryside and those which are within defined settlements. In this respect planning policy circumstances have changed since the determination and appeal decision on the earlier residential application on this site.

Paragraph 14 of the NPPF states that where development plan policies are considered to be out of date, planning permission should be granted unless adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the NPPF as a

whole OR specific policies in the NPPF indicate development should be restricted. Housing applications need therefore to be considered in the context of sustainable development, unless specific policies indicate development should be restricted. Policy COR18 is directly relevant to the supply of housing in the District and is now considered to be out of date in this regard. This does not mean that Mid Devon's policies must be cast aside, but the weight given to them is proportionate to their consistency with the National Planning Policy Framework [NPPF].

With regard to the Council's emerging policy [Local Plan Review], the strategy for development focus will be at Tiverton, Cullompton and Crediton as identified in policy S1 and S2. Emerging Policy S13 allocates Silverton as a village suitable for limited development. That development will be limited to proposals within their defined settlement limits and to allocations for development including small scale housing. Silverton is considered to be appropriate for a limited level of development, based on its physical characteristics, and the availability of the following three essential services identified: educational facility, convenience store and transport service. To this end emerging Policy S11 allocates this entire application site as a residential allocation for 8 dwellings with the requirements that 30% would need to be affordable housing, no development should take place on the floodplain to the east of the site, the carriageway over the site frontage needs to be widened with the provision of a grass verge and the design and layout should respect the character of the Conservation Area.

Therefore, whilst the application site is currently outside any settlement limits, in the absence of a currently demonstrated 5 year supply of housing land, the policies which define settlement limits on an adopted plan should not be considered up to date. For decision-making this means granting permission unless any adverse effects of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. This balance is undertaken in Section 10 of this report.

### **3. Highways and highway safety.**

A number of the objections received to this proposal are on the grounds of highway safety given the location of the site and surrounding highway network. The Highway Authority has viewed the proposals and has raised no objection recommending conditions.

Policy COR9 of the Mid Devon Core Strategy [Local Plan part 1] requires that proposals are in accessible locations and road safety is managed through control of development. Policy DM2 of the Local Plan 3 Development Management Policies requires development to be safe and accessible. The parking standards required for the development are outlined by policy DM8 of the Local Plan 3 Development Management Policies. In terms of the submitted plans, the proposed layout would provide for 2 parking spaces per dwelling with each dwelling having garage accommodation so that the scheme is above policy requirements of 1.7 car spaces per dwelling. There is on site turning and ample space for cycle and bin storage, again being in accordance with policy.

In terms of the existing highway network and location of the site in relation to the village, the site is within a 2 minute walk from Silverton High Street, providing access to a range of existing community facilities such as retail, open space and public transport. The Planning Inspector is determining appeal APP/Y1138/A/10/2124263 in 2010 for 6 residential units considered the matter of site position. Within the appeal decision, at paragraph 19 the inspector commented *'The appeal site lies some 600m from the centre of Silverton, where there are local shops, and a bus service providing connections to Exeter and Tiverton. The close proximity of local facilities*

*and public transport would in my view be likely to encourage future residents to walk, rather than drive, into the village centre.'*

*With regard to highway safety, the Planning Inspector stated at paragraphs 20 and 21, 'Until it reaches the junction with Silverdale some 140m from the southernmost access to the appeal site, this section of Old Butterleigh Road has no pedestrian footway and is largely unlit. However, while narrow, it has reasonably good visibility, and is similar in character to many other lanes in rural Devon that have high hedgebanks either side and no footways. Vehicles travel this stretch of the road at relatively low speeds, due to the 30mph restriction which begins some distance north of the appeal site, and there is no record of any accidents in the vicinity of the appeal site frontage within the last 3 years. It therefore seems fair to assume that the residents of the dwellings to the north of the appeal site have been walking to and from the village, past the appeal site, without mishap. Occupation of the proposed new dwellings would clearly increase the number of pedestrians using this stretch of the road. I consider the appellants' calculation that a maximum of 12 persons would be accommodated by the new development to be something of an underestimate; on the basis that the scheme comprises four 2-bedroom dwellings and two 3-bedroom dwellings, the maximum number of occupiers is likely to be closer to 20. However, it seems to me that given the relatively low use of this quiet road, this small increase in pedestrian traffic would not be so significant as to materially increase the risk of conflict with other road users.'*

The Planning Inspector went on to conclude that the development would accord to adopted policy which seek to ensure that new development optimises the potential for the most sustainable modes of travel, and has no adverse effect on the road network in terms of traffic and road safety. In light of the above and the fact that the scheme considered by the inspector was for 6 dwellings rather than 5 as is the case with this application and given that there is no objection from the Highway Authority, the development is considered to be acceptable in highway terms.

#### **4. Design and appearance of development and visual impact on the landscape.**

The proposal is for 5 two storey dwellings in the pattern of development being in a linear form, in keeping with the existing area where properties front on to the lane, similar distances back from the front of the site. The dwellings would be of a contemporary design with the scale of the development ensuring that the heights do not exceed adjacent neighbouring residential properties. The applicant's agent has commented that the contemporary design would create high quality homes incorporating a rural aesthetic through the use of natural materials and that the layout and arrangement of built form has been carefully considered to ensure that any development proposals will have a limited impact on the surrounding character of the site with the amount of development being comparable to the local density.

Properties have been designed to minimise their overall mass by proposing flat roofs, flat roofs with a raised parapet or roofs with a shallow pitch. The applicant's architect has stated that the intended appearance is one of a generally contemporary feeling, softened through the use of natural materials. It is noted that a number of the nearest neighbouring properties are either bungalows or chalet bungalows with the proposed dwellings being of a similar overall height to these properties.

The site is adjacent to the Conservation Area with the policy within the emerging local plan outlining that any development should respect the Conservation Area. The Conservation Officer has viewed the proposal and has noted that this is a rural road leading north out of the historic

village of Silverton and that to the north there is a linear group of 20th century bungalows and houses and that Silverton has experienced modern developments at various parts of the village, many of a rather nondescript design. With regard to the modern approach, the Conservation Officer has no objections to the development of this plot in the contemporary style proposed, nor in terms of the development of the site itself, which is considered by them to be rather of an 'in fill' one. or to the contemporary nature of the proposals.

The Conservation Officer has stated that *'The key to any development of this nature is in the quality of build, detailing, materials and finish and I would advise a careful assessment of the detailing and materials i.e. the bits that are in our control. The materials seem reasonable but I think that we need to condition many of them to ensure a good visual finish and colour scheme across all six houses. In terms of detailing I would suggest technical details for windows and flat roofs are requested/conditioned. I did not notice if fencing and gates details were provided but I would like to ensure that these match the rest of the development in quality and style. I would suggest that PD rights are carefully considered so that subsequent changes cannot undermine the visual appearance of the scheme.'* The Conservation Officer does not raise any objection to the proposal and is comfortable with a positive recommendation subject to conditions.

In light of the above, as far as the general design, scale and appearance of the dwellings are concerned, whilst a number of objections have been received on these grounds, it is considered that the development could be supported subject to conditions requiring final approval of the details outlined by the Conservation Officer and these have been recommended.

The scheme as shown would allow for hedgerow to remain along the roadside in addition to a grass verge and further planting is to be proposed as part of the development and on this basis, the development is not considered to have a significantly detrimental impact on the landscape.

The matter of trees and hedges was considered by the Planning Inspector on appeal whereby they noted that with the scheme for six dwellings considered at that time *'The proposed development would involve the removal of the existing western boundary hedgebank and its reinstatement in three sections, set slightly further back within the site to create visibility splays for the two proposed vehicular accesses.'* The Planning Inspector at paragraph 25 went on to conclude that *'In my opinion, the plans and details submitted by the appellant are sufficient basis on which to form an assessment of the proposal's impact upon existing trees and hedges. I consider that subject to a condition requiring the construction and appropriate planting of the replacement hedgebank prior to occupation of any of the houses, and the replacement of any of the new hedgerow plants that may die or become diseased within the first five years, the impact would be acceptable. In this respect, the proposed development would not conflict with any Development Plan policy.'*

On balance, it is considered that the residential development would be acceptable in accordance with Policies DM2 and DM14 of the Local Plan 3 Development Management Policies with similar conditions possible to those outlined by the Planning Inspector and Conservation Officer. The overall size of the dwellings would meet the minimum internal floorspace requirements as outlined within Policy DM15 [Dwelling sizes] of the Local Plan 3 Development Management Policies.

## **5. Living conditions of the occupiers of nearby residential properties.**

Paragraph 17 of the NPPF indicates that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and

buildings. This is reflected in policy DM14 of the Local Plan 3 Development Management Policies which sets out that new development should respect the privacy and amenity of neighbouring residents.

Given the design layout and the amended plan removing one dwelling to the southern part of the site, the main concern appears to relate to the position of House 5 which would be the closest to a neighbouring residential property directly to the north. It is considered that the properties are sited with adequate distances to boundaries to prevent any overbearing or overlooking of neighbouring property or land. There would be over 12 metres from the rear facing walls of the dwellings to the rear boundary (significantly more for central properties given the retention of the wildlife mitigation area).

In terms of plot 5 and north facing windows, it is noted that the dwelling would be between 5 and 7 metres from the northern boundary. The first floor window shown is to serve a bathroom and therefore can be conditioned to be obscure glazed and non-opening below a height of 1.7m above the floor level of this room. Two ground floor windows are shown, a small window to serve the living room and a kitchen window. In addition to the distance of the proposed property to the northern boundary, there would be a distance of over 14 metres between the proposed dwelling and the existing neighbouring property. It is considered that this is an adequate distance with the erection of a fence/wall to a height of 2 metres being possible under permitted development rights for the neighbour. However, given the concerns of the neighbour, a condition requiring further details to be submitted for the landscaping and boundary treatments for plot 5 are recommended.

Given the latest amendments, it is considered that on balance, the residential development as proposed would comply with policy DM2 of LP3 DMP with regard to allowing sufficient amenity for neighbouring users and the occupiers of the development.

## **6. Flooding, drainage and site contamination.**

The application site is primarily within flood zone 1 (lowest flood risk) with the exception of the eastern part, but this area is not to be developed. Therefore the main consideration relates to how foul drainage and surface water drainage would be dealt with. The applicant states within the application form that foul sewage will connect to the mains sewer and surface water will be disposed of by way of a sustainable drainage strategy. The Environmental Health Department has raised no objection on drainage grounds.

A Surface Water Drainage Strategy and Flood Risk Assessment Report has been submitted with this application which outlines that the surface water drainage system will be maintained by a management company and will comprise of tanked permeable paved areas around the dwellings and further geocellular tanks to the east of the site in order to achieve greenfield runoff rates

It is noted that a number of objections have been received raising flooding as a key concern with a photograph providing showing flood water running along the lane. Back in 2010 and the scheme for six dwellings on site, it was noted that the Planning Inspector considered drainage and specifically the disposal of surface water. The Planning Inspector stated *'The Council sought the Environment Agency's opinion, and the Agency's response indicated that the proposed development would be capable of complying with the requirements of national Planning Policy Statement (PPS) 25: Development and Flood Risk. At the hearing, the Council withdrew its fifth reason for refusal, which concerned the absence of information to demonstrate*

*that an adequate means of surface water disposal could be achieved. On the basis of the additional evidence and subject to a condition requiring implementation of a satisfactory surface water disposal scheme, I am satisfied that the proposed development would not increase the risk of flooding at the appeal site or elsewhere.'*

As part of the proposals submitted the Lead Local Flood Authority (D.C.C) have taken a look at the Surface Water Drainage Strategy & Flood Risk Assessment (Ref: 0196, dated October 2017) and have noted public representations regarding flooding with the immediate area surrounding the site. The Flood and Coastal Risk Engineer has *stated 'The proposed strategy indicates that the site can be adequately drained through an appropriate attenuation based system restricting rates up to 2 l/s and 1.5 l/s I note that discharging to the watercourse for plots 2-6. Is plot 1 also discharging to this watercourse? The principle is based on below ground attenuation but given the constraints of the site this is an acceptable means of disposal from the site. The proposed flows are acceptable and meet current standards for SuDS. It is apparent looking at the consultation responses that the existing flood risk is associated with surface water flowing down the highway, the current site is a solid hedge line to the access at the lower end of the site. The proposals seek to have individual access for the drives, it would be prudent that these access prevent the ingress of this exceedance flows into the proposed properties and maintain the Status Quo.'*

Since this response was received, the original Plot 1 has been removed with the surface water drainage outlined being considered to be an acceptable means of disposal for this site. A condition has therefore been recommended for the surface water drainage to be incorporated as part of any development constructed on site.

With respect to site contamination, in respect to comments received enquiring whether the site has been previously used as a burial site for animals with anthrax, the Environmental Health Department has commented that they have no records of this on the contaminated land or historical mapping data. Having spoken with the applicant he advises that the owner of the site is also unaware of any such use of the site. Therefore it is considered that a refusal on this basis would not be warranted.

## **7. Ecology.**

As part of this application, a Dormouse Presence Survey Report, Dormouse Mitigation Report and Ecological Appraisal have been submitted, prepared by Ecological Surveys Ltd. The results of the Dormouse Mitigation Report were that Dormice were previously recorded on the application site and that without appropriate mitigation, there was a possibility that dormice could be killed and/or dormouse habitat destroyed. In addition to this, Dormice are to be protected and mitigation provided during and post development in accordance with Natural England's Standing Advice and Devon County Council Advice 2014. A map of mitigation has been included showing the eastern area to be retained and augmented with diverse tree species suited to dormouse habitation e.g. hazel, honeysuckle, bramble, yew, sweet chestnut and hawthorn.

With respect to the introduction of geocellular tanks within this eastern area of land and potential impact on mitigation, the ecologist has advised that provided the same area of land is put aside for the mitigation for the dormice habitat then this would be acceptable. The applicant has confirmed that they are content to abide by the conditions relating to management of the mitigation area and if this needs to be subject to a pre-commencement condition requiring

submission and agreement of a dormouse mitigation strategy, they would be happy to undertake this.

With respect to other protected species, mitigation and enhancement measures have been outlined and a condition is recommended for these to be implemented as part of the development. Therefore subject to these conditions, the proposal would be in accordance with policy DM2 of the Local Plan Part 3 [DMP].

## **8. Impact on Heritage Assets.**

As confirmed earlier within this report, the application site is located outside of the Conservation Area and the Conservation Officer has raised no objection to the proposal. It is considered that there is sufficient distance from the application site and the edge of the Conservation Area for this development to have any detrimental impact on the Conservation Area with the development considered to be in accordance with policy DM27 of the Local Plan Part 3 [DMP].

## **9. S106 Obligations and local finance considerations.**

As a result of this development, in the event that Members were minded to approve this application a section 106 agreement would be required to provide for financial contributions towards education and public open space as follows:

- Public Open Space contribution of £6,826 allocated to improvements to School Lane War Memorial OS, Silverton
- A contribution of £16,440 [based on the DfE extension rate of £21,921 per pupil] towards additional education infrastructure at the local secondary school
- A contribution of £2,546 towards secondary school transport costs due to the development being further than 2.25 miles from Clyst Vale Community College.

The applicant's agent has confirmed that their client would be willing to enter into a S106 agreement to provide these contributions.

With regard to other possible obligations from a development such as this, Policy AL/DE/3 of the AIDPD requires open market housing sites in rural area of more than 2 dwellings to provide affordable housing at 35 percent of the number of dwellings by which the site exceeds the 2 dwelling threshold. In this requirement were to be adhered to, there would be a need to provide 2 of these dwellings as affordable dwellings. However, the Written Ministerial Statement of 28th November 2014 stated that affordable housing should not be sought from development of 10 units or less or sites which have a maximum combined gross floorspace of no more than 1,000 sq m. For designated rural areas such as this, a financial contribution towards affordable housing provision elsewhere should be sought for developments of between 6 and 10 dwellings, the contribution to be calculated in accordance with the Meeting Housing Needs SPD, policy MHN/9. Therefore a scheme for five dwellings would not result in a financial contribution towards affordable housing.

With the introduction of the Localism Act 2011, the receipt of New Homes Bonus monies is a material consideration in the determination of planning applications. If New Homes Bonus is distributed across the Council Tax bands in the same way as last year, the award for each market house is estimated to be £1,028 per year, paid for a period of 5 years, totalling £25,700.

The potential receipt of these monies is a positive aspect of the proposal but is not considered to be of any significant weight in decision making.

## **10. Sustainable development balance.**

The NPPF sets a strong emphasis on the delivery of sustainable development. Fundamental to the social role is 'supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations' [paragraph 7]. In pursuit of sustainable development paragraph 9 notes the importance of 'widening the choice of high quality homes'. Paragraph 17 sets out 12 core principles which underpin both plan making and decision taking. Paragraph 47 clearly sets out the Government's aim to 'boost significantly the supply of housing'. The NPPF is clear that delivering sufficient housing is a key consideration for Local Authorities.

It is acknowledged that the Council is presently unable to demonstrate that it has a 5 year supply of housing land and that policies relating to rural restraint are therefore out-of-date and the application needs to be assessed against the provisions of paragraph 14 of the Framework and DM1 of the Local Plan Part 3 [DMP]. Paragraph 14 of the NPPF states that where development plan policies are considered to be out of date, planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the NPPF as a whole or specific policies in the NPPF indicate development should be restricted.

The proposal would make a welcome, albeit small contribution towards increasing housing supply in Mid Devon and significant weight must be given to this. There could also be some modest benefits to the local economy, arising from construction and sales and additional spending by local residents on local services and facilities. The site is identified for development within the submitted Local Plan Review [draft policy SI1 for 8 dwellings] and is located adjacent the existing settlement limit for the village within walking distance of the centre where facilities and services can be found. The Council has already considered the site to be suitable for development through its inclusion as a draft allocation within the submitted plan. As the Local Plan Review has yet to be considered at examination, the draft policy is considered to carry little weight, although providing an indication of the Council's intentions for the site. However, in light of the current lack of 5 year housing land supply, it is considered that this tips the 'titled balance' as set out in the NPPF towards granting permission.

Other matters put forward in favour of the development include an absence of harm to ecology, flooding, drainage, visual amenity, highway safety and a limited impact on the living conditions of the occupiers of nearby residential properties. Nonetheless, these are mitigating factors rather than benefits and the weight to be given to them is therefore limited.

## **CONDITIONS**

1. CD1      Time limit - full

The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

2. CD7      Approved Plans

The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice.

3. Notwithstanding the provisions of Article 3 of The Town and Country Planning [General Permitted Development] [England] Order 2015 [or any Order revoking and re-enacting that Order with or without modification] no development of the types referred to in Classes A, B, C, D and E of Part 1, Schedule 2 relating to the extension and alteration of the dwelling, extensions or alterations to its roof, the insertion of windows and/or roof lights, porches and the provision of outbuildings, shall be undertaken within the dwellings curtilage without the Local Planning Authority first granting planning permission.
4. The development hereby approved shall be carried out in accordance with the mitigation and enhancement recommendations outlined within the Dormouse Presence Survey Report dated September 2016, Dormouse Mitigation Report dated August 2017 and the Ecological Appraisal dated May 2017 and prepared by Ecological Surveys Ltd which includes the management of the mitigation area on site. Prior to commencement on site, details of a dormouse mitigation strategy shall be submitted to and approved in writing by the Local Planning Authority with the development implemented in accordance with these approved details and maintained thereafter.
5. Prior to their use on site, details and samples of the materials to be used for all the external surfaces of the buildings shall have been submitted to and approved in writing by the Local Planning Authority. Such approved materials shall be so used and retained.
6. Working details of external doors/door frames/windows and flat roofs for each individual plot, including sections, mouldings and profiles, finishes and glazing shall be submitted to and approved in writing by the Local Planning Authority prior to the installation of these elements within the development. Installation of the doors/doorframes/windows/flat roofs shall be in accordance with these approved details, and be so retained.
7. Fencing and gates details for each plot shall be submitted to and approved in writing by the Local Planning Authority prior to their installation on site. The details shall be shown on a plan indicating the height, positions, design, materials and type of boundary treatment to be erected on the site and a timescale for their implementation. The boundary treatments so approved shall be completed in accordance with the approved details and shall be so retained.
8. 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 and manage Heavy/Large Goods Vehicle access to the site. It shall include details of 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.
9. The disposal of surface water through the residential development hereby approved shall be in accordance with the submitted Surface Water Drainage Strategy & Flood Risk Assessment dated September 2017 and produced by Pitman Associates Consulting Engineers. The surface water storage volumes and locations have been identified within this

report (and drawing no. SK001/B) with the proposed system to be designed to store below ground all runoff from the 100year +40% rainfall to greenfield runoff rates.

10. Any site access road to be constructed in order to allow the implementation of any part of this development shall be hardened, surfaced, drained and maintained thereafter for a distance of not less than 6.00 metres back from its junction with the public highway.
11. No part of the development hereby approved shall be commenced until details of the treatment of the visibility splays required have been submitted to and approved by the Local Planning Authority. The development shall be implemented in accordance with these approved details and retained.
12. In accordance with details that shall previously have been submitted to, and approved by, the Local Planning Authority, provision shall be made within the site for the disposal of surface water so that none drains on to any County Highway.
13. Any dwelling constructed shall not be occupied until the access, parking and turning areas associated with that plot have been provided in accordance with the approved plans. Following their provision these facilities shall be so retained.
14. Prior to occupation of any of the dwellings hereby granted, details shall be submitted to and approved in writing by the Local Planning Authority for a landscaping scheme, including details of any changes proposed in existing ground levels. All planting, seeding, turfing or earth reprofiling comprised in the approved details of landscaping shall be carried out within 9 months of the substantial completion of the development, (or phase thereof), and any trees or plants which, within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species. Once provided, the landscaping scheme shall be so retained.
15. Before the dwelling on plot 5 hereby permitted is first occupied, the first floor window in the north elevation serving the en-suite shall be glazed with translucent glass and shall be non-opening below a height of 1.7m measured from the floor level of this room and shall be so retained in this condition thereafter.
16. Prior to occupation of any of the houses hereby approved, the proposed Devon Hedge Bank as shown on the submitted Soft Works Plan, drawing no. 170106 L 05 01 shall be constructed and retained thereafter. Any trees or plants forming part of the proposed hedge bank which, within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species.

## **REASONS FOR CONDITIONS**

1. RD1          Planning & Compulsory Purchase Act 2004

In accordance with the provisions of Section 51 of the Planning and Compulsory Purchase Act 2004.

2. RD7A        Proper Planning

For the avoidance of doubt and in the interests of proper planning.

3. To safeguard the visual amenities of the area and amenities of neighbouring dwellings in accordance with policy DM2 and DM14 of the Local Plan Part 3 [Development Management Policies].
4. To ensure the protection of endangered species, under the European Habitats Directive and the Conservation of Natural Habitats and of Wild Fauna and Flora [Council Directive 92/43/EEC] which is implemented in the UK by the Conservation [Natural Habitats & Conservation] Regulations 1994 [Statutory Instrument No 2716] amended in 2007 and in accordance with policy DM2 of Mid Devon Local Plan Part 3 [Development Management Policies].
5. To ensure the use of materials appropriate to the development in order to safeguard the visual amenities of the area in accordance with policy DM2 of the Local Plan Part 3 [Development Management Policies].
6. To ensure the use of materials and detailing appropriate to the development, in order to safeguard the visual amenities of the area, character and appearance of the building and Conservation Area in accordance with Mid Devon Core Strategy (Local Plan 1) policy COR2 and Local Plan Part 3: (Development Management Policies) DM2, DM14 and DM27.
7. To ensure the use of materials and detailing appropriate to the development, in order to safeguard the character and visual amenities of the area, in accordance with Mid Devon Core Strategy (Local Plan 1) policy COR2 and Local Plan Part 3: (Development Management Policies) DM2, DM14 and DM27.
8. The Local Planning Authority wishes to ensure that the development proceeds in an orderly manner and in the interests of safeguarding the amenities of current and future occupants off the site and immediately surrounding area in accordance with Policy DM2 of the Local Plan Part 3 [Development Management Policies].
9. In the interest of public safety and to prevent damage to the highway and flooding downstream.
10. To prevent mud and other debris being carried onto the public highway
11. To ensure that the visibility splays are provided to a standard acceptable to the Local Planning Authority.
12. In the interest of public safety and to prevent damage to the highway.
13. In the interest of highway safety, and to ensure that adequate on-site facilities are available for traffic attracted to the site in accordance with Policy DM8 of Local Plan Part 3: [Development Management Policies].
14. To ensure that the development makes a positive contribution to the character and amenity of the area and in order to protect the amenity of occupiers of neighbouring development in accordance with policy DM2 of Local Plan Part 3: [Development Management Policies].

15. To protect the privacy of the occupiers of the neighbouring dwelling in accordance with policies DM2 and DM14 of the Mid Devon Local Plan Part 3 (Development Management Policies).

16. In the interest of the visual amenity of the area in accordance with policy DM2 of the Local Plan Part 3: (Development Management Policies).

### **INFORMATIVES**

1. You are advised that the developer must ensure compliance with the requirements relating to protected species by virtue of the Wildlife and Countryside Act 1981 and the Habitats Regulations. Any operations that would disturb bird nesting habitat should be undertaken outside the breeding season [March to August inclusive].

2. You are advised that the foul drainage should be kept separate from clean surface and roof water and connected to the public sewerage system.

3. You are advised that in regards to the drainage system for the site, in accordance with the SuDS Management Train, surface water should be managed at source in the first instance which has been outlined as being feasible within the surface water drainage strategy report provided with the use of attenuation cells and permeable paving.

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

Having regard to all material considerations, it is concluded that the application does accord with the presumption in favour of sustainable development. When tested against Paragraph 14 of the Framework the Local Planning Authority consider that the adverse impacts of the proposed development would not significantly and demonstrably outweigh the benefits when assessed against the policies of the NPPF as a whole, as well as being in accordance with Policy COR1 of the Mid Devon Core Strategy [Local Plan Part 1] and Policy DM1 of the Mid Devon Local Plan Part 3 [Development Management Policies]. The application has therefore been recommended for approval.

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

Application No. 17/01517/FULL

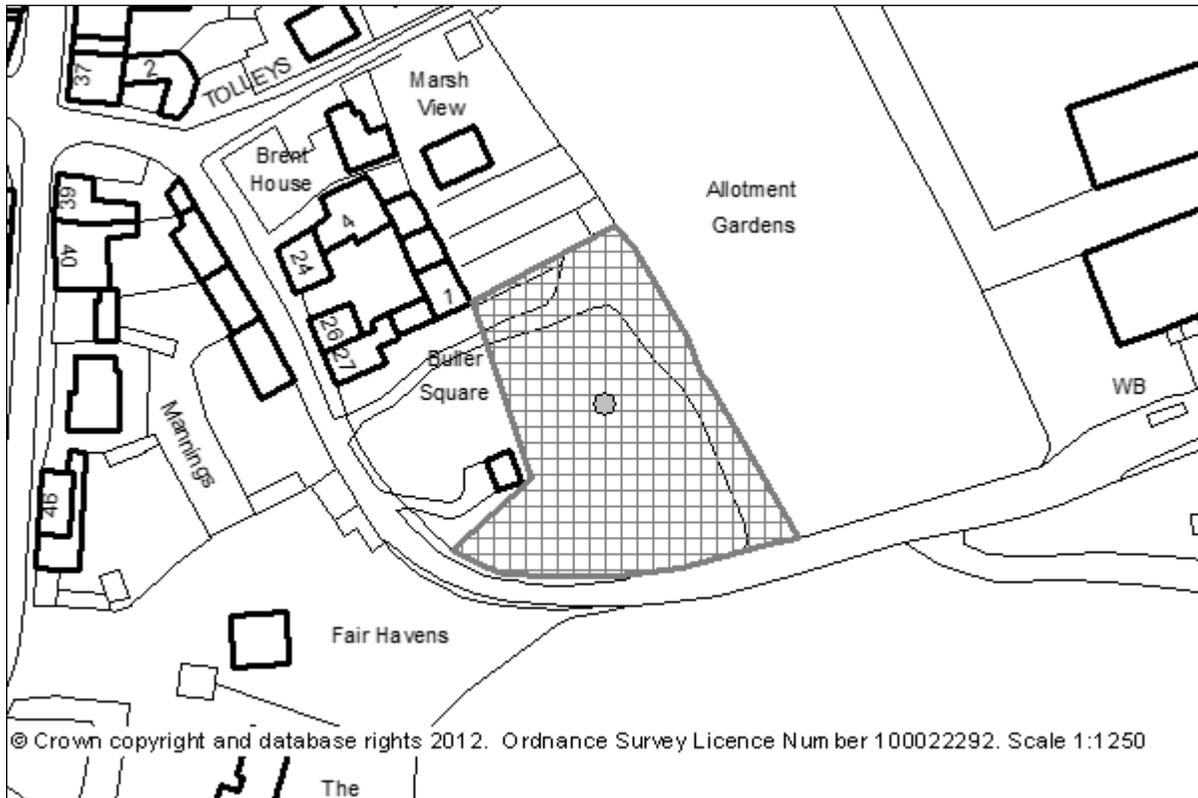
Grid Ref: 283967 : 100063

Applicant: Mrs S Partridge

Location: 27 Downeshead Lane  
Credton  
Devon  
EX17 1HH

Proposal: Erection of a dwelling and alterations to existing vehicular access

Date Valid: 5th October 2017



## **APPLICATION NO: 17/01517/FULL**

There were 8 Members of Planning Working Group present.

Also present – the applicant, a representative of the Town Council, one of the Ward Members, the case Officer and the Conservation Officer.

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

- The impact of the proposed development in relation to the listed building
- The impact of the proposal on the local amenity and in relation to the character and appearance of this part of the Crediton Conservation area
- The proximity of the listed building to the industrial site
- The properties surrounding the site and the new dwellings erected on the corner of Downeshead Lane
- The access into and out of the site

The Area Team Leader outlined the application, providing plans for the application, the 300 sq. metres of living space, the vehicular access which would serve the proposed dwellings and the rejuvenated vehicular access on the bend of Downeshead Lane that would serve the existing dwelling. He asked Members to consider the location which was an important area within the Conservation Area, the setting of the Grade II listed building at 27 Downeshead Lane, the siting of the allotments and the industrial estate beyond.

Members considered the plans which highlighted the two storey section of the proposal which was within 27 metres of the listed building and the single storey part of the application nearest to the dwelling at 16 metres. Consideration was also given to the elevations, the height and scale of the proposal. With the use of the measuring pole, Members also considered the impact of the proposal on the listed building.

The group moved towards the listed dwelling and the curtilage of the proposed dwelling was identified. It was requested that the Conservation Boundary be highlighted within a plan when the proposal returned to Committee.

Mrs Partridge (applicant) spoke; she identified the boundary of the proposal and stated that a wall or a Devon bank would be constructed between the proposed dwelling and the listed building. She described the excavation that would take place to lower the proposed dwelling on the site. She also highlighted the proposal for 3 dwellings that had gained planning approval that were not within the setting of the listed building, although she felt that they would be more apparent than the proposal being discussed. The Heritage Consultant had been very involved in the application and felt that any impact on the listed building had been mitigated.

The representative from the Town Council spoke of the fire that had occurred in Buller Square and the remedial work that was taking place which had changed the area somewhat.

The Ward Member stated that he thought that the proposed development was permissible; the applicant had considered the impact on the listed building through the application. He also referred to

the fire in Buller Square and the remedial work that had taken place and the impact of this on the listed building.

The Group then moved further up the site onto Downeshead Lane and considered the site for the 3 dwellings that had received planning permission, the proposed access to the original dwelling and requested that the height and amount of excavation proposed for the 3 dwellings be clarified for the committee.

Members considered the reasons for the site visit and agreed that they had looked at all the issues.

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

### **MEMBER CALL-IN**

Cllr Nick Way called in for the following reason:

I would like to call this application in. I cannot accept the impact on the site and conservation area will be as badly affected as officers' state. Suitable screening measures could be made a condition.

### **RECOMMENDATION**

Refuse permission

### **PROPOSED DEVELOPMENT**

Erection of a dwelling and alterations to existing vehicular access No 27 Downeshead Lane Crediton Devon EX17 1HH.

The site adjoins Grade 2 listed buildings at Buller Square. It is in the Crediton Conservation Area. The application site lies to the south east of No 27 Downshead Lane, a two storey grade 2 listed house which forms the southern side of the listed Buller Square courtyard. No 27 was mostly unaffected by the major fire in 2012 apart from the eastern wing which has been fully repaired. The application site (0.19 Hectares) is part of the curtilage of No 27.

The site slopes significantly from the southern boundary to the listed house. The southern boundary of the site is formed by the highway (Downshead Lane). This road joins the road that serves part of the Lords Meadow Industrial Estate to the east. This road is not a through road.

There is an existing vehicular access to Downshead Lane on the south side. This access is proposed to serve the proposed house. There is a separate vehicle access closer to No 27 that will be retained to serve that house with car parking space. The area of curtilage land that is directly south of No 27 (including that access) is proposed to be fenced off for use as a garden for No 27.

The proposed house will be sited on the curtilage land, formerly an orchard, to the south east of No 27. It takes the form of an L-shaped dwelling, part two storey and part single storey.

The longer two storey wing of the house is to be north south oriented and the single storey wing (closest to No 27) is to be east west oriented.

The ground floor will comprise large hall from north facing front doorway with cloakroom, open plan kitchen/dining room, utility room, separate sitting room, two separate study rooms and plant room. The first floor will comprise three bedrooms and three bathrooms plus three dressing rooms. The ground floor footprint is 161.0Sq m and the overall floor space is 274Sq m.

Due to the significant slope of the land it is proposed to excavate the land at the southern end of the north south wing to avoid any steps within the ground floor plan.

This will therefore require external retaining walls to provide the level courtyard space in the right angle space formed by the L-shape building mass.

The depth of the excavation at the southern end of the two storey wing, and to achieve the courtyard at the ground level of the house, is approximately three meters. The development will necessitate the removal of one mature oak tree and some vegetation. The east elevation and the north elevation would be faced in brick. The west elevation and the south gable end of the long wing would all be rendered using an off white/pale grey self-coloured render system. Roofs would be clad in slate, and would include large and small roof lights. The south elevation will be covered extensively with solar panels.

Car parking and turning is proposed at the northern end of the site next to that boundary. No garaging or covered car port is proposed.

## **APPLICANT'S SUPPORTING INFORMATION**

Plans and elevations  
Design and Access Statement  
Heritage Statement  
Tree survey  
Wildlife Survey

## **RELEVANT PLANNING HISTORY**

**00/01654/CAT** - NOBJ date 5th December 2000

Notification of intention to fell 4 Birch, 1 Hawthorn, 1 Poplar, 1 Elder and 1 Apple tree in the Conservation Area

**00/01655/CAC** - PERMIT date 21st December 2000

Conservation Area Consent for the demolition of part of boundary wall

**01/02015/CAT** - NOBJ date 19th December 2001

Notification of intention to fell 1 no. Silver Birch and 9 no. Wych Elms within a Conservation Area

**03/01498/LBC** - PERMIT date 29th August 2003

Listed Building Consent to remove internal partitions, alterations to fenestration, including installation of replacement windows and reinstatement of door

**87/01024/OUT** - REFUSE date 24th August 1987

Outline for the erection of two dwellings and construction of vehicular access

**88/00079/FULL** - PERMIT date 29th March 1988

Erection of garage and construction of vehicular access

**91/01527/LBC** - PERMIT date 14th January 1992

Listed Building Consent for alterations to linhay to provide ancillary domestic accommodation

**98/00940/FULL** - REFUSE date 7th September 1998

Erection of bungalow with garage underneath and detached garage (to serve existing dwelling No.27)

**06/01717/LBC** - PERMIT date 15th September 2006

Listed Building Consent for insertion of replacement window

**12/01759/LBC** - PERMIT date 7th February 2013

Listed Building Consent for reconstruction works due to fire damage

**12/01772/FULL** - PERMIT date 8th February 2013

Reconstruction works due to fire damage

## **OTHER HISTORY**

**16/01101/PREAPP** - CLO date 13th September 2016 - PROTECT - Proposed erection of dwelling

## **DEVELOPMENT PLAN POLICIES**

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

COR2 - Local Distinctiveness

COR15 - Crediton

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

AL/IN/3 - Public Open Space

AL/CRE/8 - Crediton Air Quality

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

DM2 - High Quality Design

DM8 - Parking

DM27 - Heritage Assets

## **CONSULTATIONS**

Crediton Town Council - No objection.

DCC Highways – No objection

Would not raise an objection to the single dwelling and the increase in traffic would not be considered as severe. Traffic speeds are low by the very nature of the narrow substandard carriageway and as long as the existing access provided the appropriate level of visibility the scheme is acceptable.

Anticipate speeds to be between 10 and 20mph so a splay of 2.4m by 14m with no obstruction greater than 600mm would be appropriate.

## **REPRESENTATIONS**

None.

## **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

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

1. Principle of development.
2. Impact on setting of conservation area and listed buildings.
3. Design and amenity.
4. Ecology.
5. Parking.
6. Highways and Highways safety.
7. Other matters.

## 1. Principle Policy COR15

The site is located within the settlement boundary of Credenon where small scale residential proposals are acceptable in principle in accordance with policy COR15.

However, the fact the development is within the settlement limits of Credenon does not override the other policy considerations that apply in this case as set out and considered below

## 2. Impact on the setting of the Conservation Area and listed buildings. Policy DM27 and National Planning Framework

The primary determining issue in this case is the impact of the development on the setting of the Credenon Conservation Area and the setting of the listed house No 27 and the adjoining Buller Square group.

Paragraph 131 of the National Planning Policy Framework states that:-

*'When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification'.*

The adopted appraisal accompanying the Credenon Conservation Area (a designated heritage asset) shows this specific garden site as being 'a visually important open space in the Conservation Area'. This appraisal was created when the Conservation Area was reviewed in 2003 to assist with decisions on development. This carefully considered appraisal advice should inform the decision on this current proposal. It strengthens the view that the site is particularly sensitive and important as it currently exists as an open space. The clear implication is that development on the site would have a significant and harmful impact on the setting of the conservation area. Para 131 of the NPPF quoted in full above requires that 'great weight' should be given to the assets' conservation area and that 'any harm or loss should require clear and convincing justification'.

Officers have been consistent in their advice to the applicant on this case. At the pre application stage officers advised that a new house on this site could not be supported due to its adverse impact not only on the setting of the Conservation Area but also setting of the listed house at No 27 Downeshead Lane and the adjoining listed group. This proposal is detailed and for a different design but is on broadly the same site, albeit larger than indicated at the pre-application stages.

The site is on a steep slope and a 'cut in' type approach is used to engineer the house within the

slope. The north south wing of the house is two storey and the southern end is set into the ground by approximately 3 metres. Due to the land slope the full two-storey end of the house and significantly the most prominent element is on the part of the site closest to the listed building (no. 27). At its full height this gable end is 7.4 metres above ground level. At the closest point to the listed house and with only 16.0 metres separation, the difference in land level is approximately 3 metres. This means that the eaves level of the closest part of the new house is approximately 6 metres above the ground level at the south elevation of No 27. The ridge height at its closest point to No 27 is 8.4 metres above that ground level. Furthermore, the ridge height of the two storey gable of the proposed house is approximately 10.0 metres above the ground level at the front of No 27, and between 2.0 – 5.5 metres higher than the ridge level of the listed house.

The very substantial height difference to the listed buildings will create an overpowering impact visual impact as viewed from No 27. This impact will not be positive or even neutral it will be negative and harmful. It will create an alien intrusion into an important open space.

The ground works associated with the proposal will also create an unnatural contrived form in the local landscape. It is the view that the proposal will cause significant harm to the character of the conservation area and the setting of the listed buildings.

Policy DM27 and NPPF para 134 require that where there is harm to the setting of heritage assets this harm should be weighed against the public benefits of the proposal.

The applicants have not submitted any public benefits arising from this proposal that will outweigh this harm. The personal circumstances of the applicant do not outweigh the harm caused. A permanent development proposal for something that addresses a personal circumstance is not acceptable where there are other fundamental objections to that proposal.

The proposal does include the loss of an oak tree and other vegetation which will allow the building to be more widely visible in the local and distant landscape.

It is the view that the proposed development will have a strongly negative rather than positive impact on the setting of the Conservation Area by severely compromising the important open space that currently exists.

### **3. Design and amenities Policy COR2 and DM2**

The applicant's Design and Access Statement makes a case for the design of the house taking into account some local building references. In reality, this is unconvincing because the design has no particular relationship in terms of building forms or massing to the adjoining listed buildings. It could actually be designed for any sloping site in Crediton or elsewhere in the County and beyond. The same conceptual principles adopted in this case by the applicants could apply equally to many other sites. It has no particular sense of local distinctiveness. Added to this is the fact that the house has been placed on the site in a form that makes sense for the proposed occupants and the access and garden, that is to achieve level access at ground and first floor levels and to the courtyard.

It has no correlation to boundaries e.g. walls or hedges that would help it assimilate into this sensitive landscape. The site is strongly elevated above No 27 and the new house will be visible from much further afield. It is a very large building that dwarfs the small domestic scale of buildings nearby in terms of its massing and scale. Also rather than working with, and respecting, the strong natural slope of the land the proposal simply cuts into it and will inevitably scar it permanently with unnatural

contours.

It is the view of officers that the design is not locally distinctive in terms of its massing or elevations and will have a negative rather than positive impact on the local environment.

Policy DM2 states that:

*designs of new development must be of high quality, based upon and demonstrating, inter alia, the following principles:*

- a) Clear understanding of the characterizes of the site, its wider context and the surrounding area;*
- b) Efficient and effective use of the site, having regard to criterion (a);*
- c) Positive contribution to local character including any heritage or biodiversity assets and the setting of heritage assets;*

It is the officer's view for the reasons above that the proposed development would not be in accordance with policy DM2. While the applicants have demonstrated that they have analysed the characteristics of the site (part (a) above) and its context they have failed to make a convincing case for the development on this very sensitive site and its impact on the setting of the Conservation Area and the adjoining listed buildings. It is the view that the proposed development will make a negative rather than '*positive contribution to local character including the setting of heritage assets*' (part c).

Policy COR2 (Local Distinctiveness) requires that:

*'Development will sustain the distinctive quality, character and diversity of Mid Devon's environmental assets through:*

- a) high quality sustainable design which reinforces the character and legibility of Mid Devon's built environment and creates attractive places, and*
- e) the preservation and enhancement of Mid Devon's cultural and historic environment, and the protection of sites, buildings, areas and features of recognised national and local importance.*

It is the Officer's view for the reasons given above that the proposed development does not '*reinforce the character and legibility*' of Crediton's built environment. It is rather a very large mass of new building imposed on an intimate local landscape. Nor does it '*preserve and enhance*' the local historic environment including the Conservation Area and adjacent listed buildings.

#### **4. Ecology**

The applicant's commissioned ecology report finds no particular obstacles to the development of the site other than precautionary works regarding lighting and provision of bird boxes and bat boxes.

#### **5. Parking**

Policy DM8 requires the minimum of 1.7 spaces per dwelling and 4 cycle spaces per dwelling. Such space is accommodated for the new house and the existing house.

#### **6. Highways and Highway safety**

The access to the highway is from an existing access to Downshead Lane.

No objections have been raised by the Highway Authority subjects to improvements at the junction with the highway to improve visibility. The necessary details (a splay of 2.4m by 14m with no obstruction greater than 600mm would be appropriate) could be secured as a conditional requirement if the resolution passed by members is to grant planning permission.

## **7. Other matters**

Policy AL/IN/3 and policy AL/CRE/8 of the AIDPD would need to be addressed in advance of planning permission being granted if the event that the officer recommendation is not supported by the committee. In accordance with these policies and the relevant guidance in the supporting Supplementary Planning Documents on the provision and funding of open space and Air Quality and development financial contributions of £1442.00 and £4434.00 would be required. The applicants have made the appropriate payments and submitted the necessary paperwork to address these requirements.

Consideration should be given to the New Homes Bonus that would be generated by this application. If New Homes Bonus is distributed across the Council Tax bands in the same way as last year, the award for each market house is estimated to be £1,028 per year, paid for a period of 5 years at this current time.

### **Summary**

It is the view that the proposed development will have a strongly negative rather than positive impact on the setting of the Conservation Area by severely compromising the important open space that currently exists and that is specifically referred to in the Conservation Appraisal.

Policy DM27 and NPPF para 134 require that where there is harm to the setting of heritage assets this harm should be weighed against the public benefits of the proposal.

The applicants have not made claim to any public benefits arising from this proposal that will outweigh this harm. This is the first and most important consideration. The second objection relates to the design and massing of the proposed building.

It is the view of Officers that the design of this very large building is not locally distinctive in terms of its massing or elevations and will have a negative rather than positive impact on the local environment. It will not integrate well into the landscape. It has been demonstrated above that it is not in accordance with Policy COR2 or Policy DM2

Officers have been consistent in their opposition to the proposed development on this site.

If Officers had felt that amendments to the scheme could be negotiated that would overcome the fundamental concerns expressed above then such negotiations would have taken place. However in this case an approach to the applicants to enter into negotiations would have led to a false impression that the development could be designed to overcome the fundamental objections.

Hence the recommendation below is a clear and firm recommendation based on the analysis of the proposal above in the context of national and local policy considerations.

### **REASON FOR REFUSAL**

In the view of the Local Planning Authority the proposed new dwelling because of the siting, size, scale and overall design will lead to the introduction of an incongruous and dominant new building form in the Crediton Conservation Area and within the setting of the listed building (referred to as 27 Downeshead Lane). The Crediton Conservation Area adopted appraisal shows this garden site as being a visually important open space in the Conservation Area and it is not considered that the proposed dwelling demonstrates an understanding of its wider context or makes a positive contribution

to character or the setting of this heritage asset. Overall it is considered that the dominant scale, mass and design of the proposed dwelling would result in harm to the character and setting of the listed building and would be detrimental to the character and appearance of this part of the Crediton conservation area, and in the absence of any demonstrable public benefits that would outweigh this harm the proposal is therefore considered to be contrary to the requirements of policies DM2 and DM27 of the Local Plan part 3 (Development Management Policies) and part 12 of the National Planning Policy Framework.

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

Application No. 17/01427/FULL

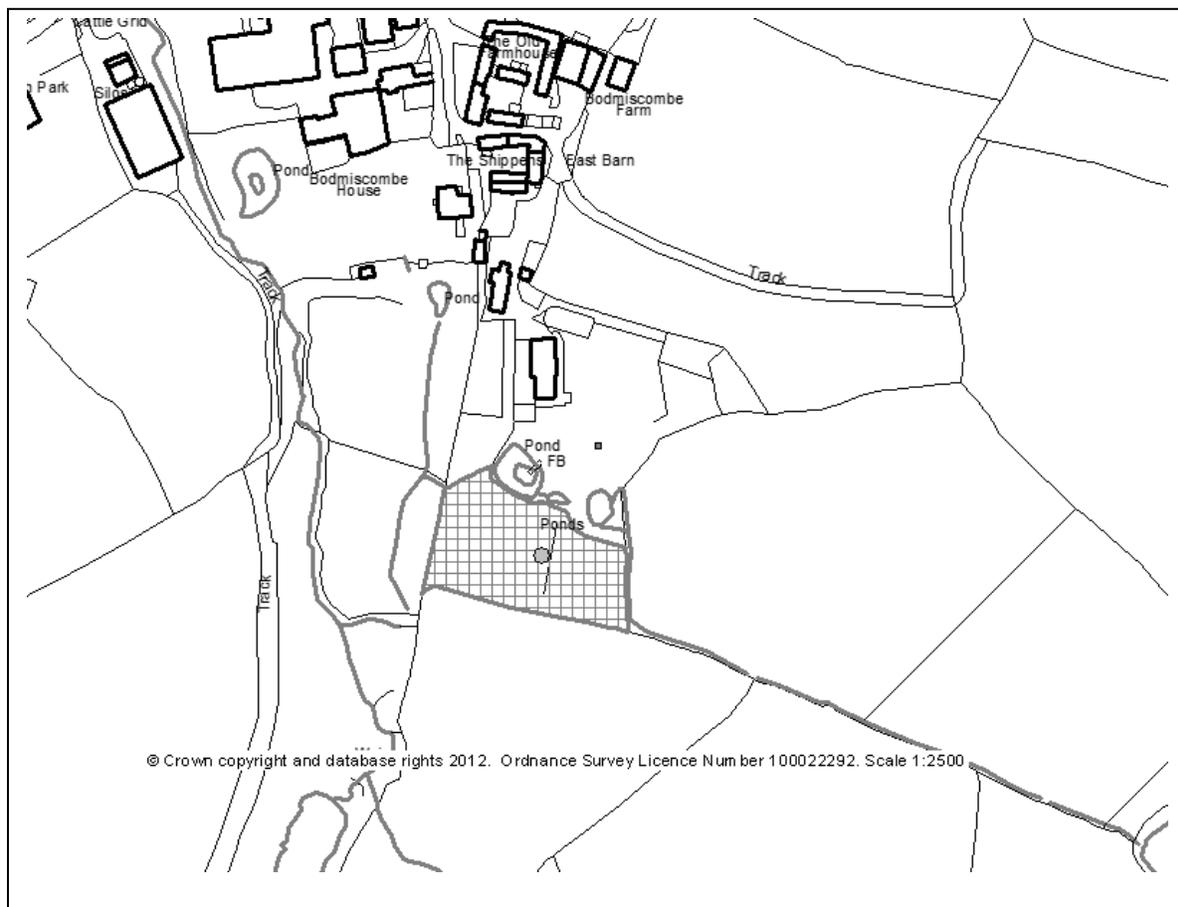
Grid Ref: 310932 : 109654

Applicant: Mr R Hill

Location: Land at NGR 310904 109604 (The Shippens)  
Blackborough  
Devon

Proposal: Change of use of agricultural land to domestic garden and retention of play/exercise equipment

Date Valid: 20th October 2017



## **APPLICATION NO: 17/01427/FULL**

### **MEMBER CALL-IN**

Ward Member, Cllr Glanmor Hughes has requested that this application be determined by the Planning Committee for the following reason:

To consider whether there is a negative impact of the proposed change of use of the land to domestic garden and siting of the equipment on either the AONB or neighbouring properties and whether the equipment is reasonably necessary in this location for the needs of the residents.

### **RECOMMENDATION**

Refuse permission

### **PROPOSED DEVELOPMENT**

This application proposes a change of use of agricultural land to domestic garden and retention of play/exercise equipment on land to the south of the existing dwelling and its associated domestic curtilage.

The equipment on the site comprise of the following:

- 1) 7 pieces of fixed metal exercise apparatus on an area of land which has been excavated to form a level surface
- 2) Timber playground (no details have been provided);
- 3) Timber post cable slide (approx. 3.5 metres high).

The area of land which is proposed to be changed from agricultural to domestic is stated in the application form as being approximately 0.1ha, although measurement from the plans accompanying the application put the site in question as being a broadly rectangular area in the order of 88m x 50m (c0.4ha).

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

Application form, site location plan, site plan, design and access statement, equipment details.

### **RELEVANT PLANNING HISTORY**

**89/00024/FULL**- PERMIT date 14<sup>th</sup> August 1989

Change of use to convert buildings into three houses and alterations to vehicular access

**93/00046/FULL** – PERMIT date 29<sup>th</sup> April 1993

Conversion of redundant farm outbuilding to dwelling and installation of septic tank

**93/01326/FULL** – PERMIT date 16<sup>th</sup> December 1993

Detailed drawings for the conversion of redundant outbuildings to dwellings and provision of car parking

**96/00008/FULL** – PERMIT date 23<sup>rd</sup> February 1996

Variation of condition (2) relating to conformity with approved drawings & condition (2)(i) relating to making good in natural stone p.p 4/53/93/1326 to permit (a) the rendering of the south gable end & elevation of unit 3 & the enlargement of the first floor window in the same elevation (b) the application of dark stained boarding to the left hand side of the west gable end elevation of unit 2 & (c) the rendering of the upper part of the west elevation of unit 2.

**96/00447/FULL** – PERMIT date 29<sup>th</sup> September 2000

Erection of a timber play hut and provision of play area

**95/01205/FULL** – PERMIT date 6<sup>th</sup> September 1995

Conversion of garden store/workshop to residential annexe for use in association with Unit 3

**01/00544/FULL** – PERMIT date 11<sup>th</sup> September 2001

Retention of shelter and shed

**00/01048/FULL** – PERMIT date 15<sup>th</sup> November 2000

Retention of two metal flues one on unit 2 and one on annexe to unit 3, revised design of stable door on west elevation of unit 2, timber cycle shed located to south of unit 2 and erection of glazed extension to play hut and garden shed

**04/01413/FULL** – REFUSE date 5<sup>th</sup> August 2004

Erection of conservatory

**07/00306/FULL** – PERMIT date 2<sup>nd</sup> May 2007

Replacement playroom and tractor shed

**10/00206/FULL**- WITHDRAWN date 7<sup>th</sup> April 2010

Erection of two conservatories and activity centre

**10/00542/FULL** – PERMIT date 4<sup>th</sup> June 2010

Change of use of land to garden and erection of two conservatories and outbuilding for ancillary domestic use (Revised scheme)

**12/01701/FULL** - PERMIT date 7<sup>th</sup> March 2013

Erection of extension to existing building to house a prefabricated portable swimming pool

**12/01785/FULL**- PERMIT date 11<sup>th</sup> April 2013

Erection of single storey extension to form garage/store

**13/01660/FULL** - DELETE date 17<sup>th</sup> July 2014

Change of use of agricultural land for the siting of a timber shed for storage, work and relaxation

**17/00217/FULL** - PERMIT date 14<sup>th</sup> June 2017

Erection of a polytunnel

## **DEVELOPMENT PLAN POLICIES**

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

COR2 – Local distinctiveness

COR18 - Countryside

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

DM2 – High quality design

DM29 – Protected landscapes

### **CONSULTATIONS**

Highway Authority: No comments received.

Environment Agency: Change of use within Flood Zone 1 - No EA consultation required.

Uffculme Parish Council: No comments received.

Blackdown Hills AONB: Views awaited at the time of writing this report. However, their comments made on the previous application made specific reference to the unauthorised play equipment (which wasn't part of the previous application) which were as follows:

My thoughts on the play equipment - this does concern me, both in terms of the principle of installing it in a non-domestic area, again adding to the encroachment of this property into the countryside, and the incongruity of the structures (and children/young people playing on them) in the rural setting.

### **REPRESENTATIONS**

One objection has been received raising the following points:

1. The scale of the equipment is out of place with the AONB.
2. We have never seen the equipment in use and question raised over health and safety concerns in the event of its use by those that it is intended for.

One letter of representation has also been received. The letter outlines the authors lack of objection to the application scheme, further outlining the benefits and enjoyment as a result of the scheme for the occupants of the properties associated with The Shippens.

### **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

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

1. Planning History
2. The principal of development on the site
3. Impact on the special qualities, character and appearance of the Blackdown Hills Area of Outstanding Natural Beauty
4. Whether there is sufficient justification for the development on the site

#### **1. Planning History**

A planning application seeking permission for the erection of a polytunnel and field shed on the site

was brought before the Planning Committee on 19<sup>th</sup> April 2017. The application was deferred by the planning committee in order to enable further negotiations between the planning officer and the applicant to be had, particularly in regards to the siting and proposed use of the field shelter which was thought to be poorly related in terms of its location to existing structures on the site with little justification. Following negotiations, the applicant subsequently withdrew the field shelter element of the application. An application for the erection of the polytunnel (17/00217/FULL) was granted planning permission on 14<sup>th</sup> June 2017.

The current application is for the change of use of agricultural land to domestic garden and retention of play/exercise equipment. Members were informed of the unauthorised equipment and use of the land at the Planning Committee meeting held on 19<sup>th</sup> April 2017. At that meeting Members requested that officers to enter into discussions in relation to the currently unauthorised play equipment and looking at alternative locations.

It is confirmed that those discussions have taken place but this application does not propose to amend the location of the equipment. As such, this application seeks to regularise the existing siting of the equipment to the south of the site and change the use of the land from agricultural to domestic garden.

## **2. The principal of development on the site**

Policy COR18 of the Mid Devon Core Strategy (Local Plan Part 1) deals with development in the countryside stating that development outside of settlements will be strictly controlled, enhancing the character, appearance and biodiversity of the countryside while promoting sustainable diversification of the rural economy.

Policy COR2 of the Mid Devon Core Strategy (Local Plan Part 1) deals with local distinctiveness; seeking that development should sustain the distinctive quality, character and diversity of Mid Devon's environmental assets through the preservation and enhancement of the distinctive qualities within the Blackdown Area of Outstanding Natural Beauty. This is emphasised too in DM2.

Policy DM29 of the Mid Devon Development Management Policies (Local Plan Part 3) deals with development in/ affecting protected landscapes stating that development proposals within or affecting the Blackdown Hills Area of Outstanding Natural Beauty must demonstrate that the cultural heritage and the character, appearance, setting and other special qualities of the landscape will be conserved or, where possible, enhanced; and biodiversity will be conserved and enhanced where possible through improved linking of habitats, appropriate landscaping and habitat creation. Policy COR2 also establishes within criterion 2 that within the Blackdown Hills AONB, the primary objective will be to protect the special environmental qualities of the landscape and its setting.

## **3. Impact on the special qualities, character and appearance of the Blackdown Hills Area of Outstanding Natural Beauty**

The application site is located to the far southern extent of the existing development at The Shippens, on an area of land laid to grass. The installation of the equipment has necessitated excavating and levelling an area to enable 7 pieces of metal apparatus to be installed.

Development in the AONB should be of the highest quality and conserve or enhance the special

landscape qualities of the area

Members will be aware (and can be seen in the planning history section above) that a number of applications over the last 10 years or so have been submitted for development at this site which has already seen a spread of development southwards from the main complex of traditional farm buildings ( now dwellings).

Your officers do not have any objection in principle to the provision of such equipment at The Shippens. However, it is considered that there are locations closer to the existing buildings on site which would be considered more appropriate, as the equipment would be grouped with existing buildings and structures on the site. Of more concern is the specific location of this proposal and in particular the further encroachment of domestic paraphernalia into open countryside which by virtue of its special qualities, has been designated as an Area of Outstanding Natural Beauty.

**4. Whether there are other material considerations which provide sufficient justification for the development on the site**

The application site consists of a main house with a number of other buildings serving a community of three assisted living adults. Access to the site is via a private lane which comes off the unclassified road between Blackborough and Ashill.

This application seeks permission for the retention of play/adult exercise equipment at The Shippens and as such the change of use of the agricultural land on which this is sited to domestic garden. The property is occupied by three adults with learning and other physical and mental disabilities. The existing play/exercise equipment is used by these adults on a daily basis and forms part of their wellbeing. The applicant advises that the equipment has been in situ since approximately 2009.

Information has been provided by the applicant regarding the personal circumstances and needs of the residents of the property in order to justify the retention of the equipment and change of use of the land from agricultural to domestic garden. The applicant claims that the play/exercise equipment is necessary to continue to support the lives of the residents of the Shippens. The residents of The Shippens are vulnerable adults, all of whom have learning, mental and physical disabilities. They have complex needs which make accessing the community challenging on occasions. As such it is essential that the residents are occupied physically and mentally on site. The applicant has always endeavoured to provide a good quality of life for his residents and to consider their individual needs and their interests.

Whilst your officers understand the benefits this equipment will bring to residents at the site, it is not considered that sufficient justification has been provided for equipment in the location provided to overcome the concerns about domestic 'creep' into the AONB and the consequent erosion of the special qualities and characteristics of the landscape. However, if Members consider that the personal circumstances of the users of the equipment are such that they justify retention of the equipment of site, consideration should be given to a temporary permission for the equipment to be removed when no longer required by the occupiers of The Shippens and the use of the land to return to agricultural.

As such the proposal is not considered to comply with policies COR2 and COR18 of the Core Strategy and DM2 and DM29 of the Local Plan part 3 (Development Management policies) and refusal is

commented.

## **REASON FOR REFUSAL**

1. In the opinion of the Local Planning Authority, the development results in undesirable encroachment of domestic development on agricultural land within the Blackdown Hills Area of Outstanding Natural Beauty. The location of the equipment is not considered to be well related to the residential dwelling and existing buildings on the site and results in further encroachment into the open countryside which has been designated as an Area of Outstanding Natural Beauty due to its special appearance and characteristics. The applicant has been advised that there are more preferable locations available to relocate the equipment to which are better related to existing development on the site. The LPA have considered the special circumstances put forward by the applicant to justify the proposed location but it is not considered that these override the concerns about the impact on the AONB set out above. As such, the proposal is considered to be contrary to policies COR2 and COR18 of the Mid Devon Core Strategy, DM2 and DM29 of the Local Plan Part 3 and the National Planning Policy Framework.

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