

REPORT OF THE HEAD OF PLANNING AND REGENERATION

17/00652/MOUT

PROPOSAL: Outline for a mixed development of 30 dwellings, commercial buildings, access, public open space, landscaping, and associated works.

Since consideration of the application took place on 31 January 2018, the application has been appealed to the Planning Inspectorate on the grounds of non-determination. The Planning Committee are no longer able to determine this application, although it is requested that the Committee consider it to conclude whether they would have resolved to approve or refuse the application.

BACKGROUND:

This application seeks outline planning permission for the erection of 30 dwellings commercial buildings, access, public open space, landscaping, and associated works on land to the south, west and east of the village of Willand. Access is to be determined as part of this application with all other matters reserved for future consideration.

The application site is proposed to utilise the existing access with some minor alterations. This access is off the B3181 which links the village of Willand and Cullompton. The red line of the application site includes an existing dwelling, petrol station and other commercial enterprises which are to be removed and replaced with a bespoke commercial unit.

The application site is outside of any defined settlement limits of a village or town and so is in the countryside in planning terms. Furthermore, other than for the access, the site of this application does not form part of any current or proposed allocation for development in the Local Plan.

The site is ostensibly level. It is bounded to the north and west by trees and hedge belt adjacent to the M5 Motorway, to the east by the village of Willand within the settlement limits. To the North lies open farmed land.

REASON FOR REPORT: To consider the reasons for refusal proposed by the Planning Committee at the meeting of 31st January 2018 in light of further advice from Officers and to decide how the Council would have determined the planning application had it the ability to do so in light of an appeal for non-determination submitted by the Agent on 16th February 2018.

RECOMMENDATION(S)

Subject to the prior signing of a S106 agreement to secure:

- 1. 35% affordable housing on-site**
- 2. 21 dwellings x £5,218 = £109,578 air quality contribution**
- 3. 5 dwellings x £1,205 = £6,075 open space contributions together with the provision of onsite LEAP and sports facilities to provide for refurbishment (of Chestnut Drive Play Area Willand)**
- 4. £102,390 toward improved primary education facilities ((£3,413 per dwelling)**

5. The phasing of the works to provide for the commercial units prior to demolition of the existing and prior to the occupation of the 5th Market dwelling.

Grant planning permission with conditions

Relationship to Corporate Plan:

Homes

- Facilitating the housing growth that Mid Devon needs, including affordable housing
- Planning and enhancing the built environment

Environment

- Protect the natural environment

Financial Implications: An appeal may require the appointment of planning consultants to assist in the defence of the reasons for refusal. The applicant may make an application for costs on any appeal against the Council and such costs claims are made by demonstrating that there has been unreasonable behaviour. That being the case, Members must be able to clearly justify each and every reason for refusal-in line with the development plan and all other material considerations.

Legal Implications: The report identifies the risks in proceeding with an appeal based on the reasons given by the Committee on 31st January 2018 – both in terms of outcome of an appeal and the risk of a costs decision. The Council will still need to prepare draft planning conditions for the appeal and negotiate and complete a section 106 agreement. External legal representation may be required if the appeal proceeds to a public inquiry.

Risk Assessment: If Committee decide to refuse the application for reasons that cannot be sustained at appeal there is a risk of a successful appeal costs claim against the Council for reasons of unreasonable behaviour.

1.0 Introduction

1.1 At the Planning Committee held on 31st January 2018 the Planning Committee resolved that they were minded to refuse the above application contrary to officer recommendation and therefore wished to defer the application for consideration of an implications report to consider the reasons for refusal to include:

1. The adverse impact of the development
2. The sustainability of the site
3. The cumulative impact of the current and likely development in respect of the number of housing developments in Willand and the impact of this on the local community
4. The site was not contiguous and outside of the Local Plan allocation
5. The loss of community facilities as stated in Policy DM25
6. The impact of the development on the local infrastructure
7. The fact that the proposal was outside the settlement limit.

2.0 Further Officer advice

2.1 In considering this application, Members will also need to have regard to the comments of the Inspector on the adjacent site, insofar as they are relevant. The appeal related to the provision of 259 dwellings (ref: 16/01811/MOUT) and was dismissed in November 2017 [hereinafter referred to

as the appeal]. Also mentioned below is a recent appeal at Uffculme Road, Uffculme for 30 dwellings (17/00300/MOUT) which was allowed at appeal in October 2017 [hereinafter referred to as the Uffculme appeal]

With regards to the concerns raised by Members at their previous meeting, your officers would advise as follows:

1.

The adverse impact of the development - The NPPF states that where the development plan is absent, silent or relevant policies are out-of-date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the NPPF taken as a whole. This is referred to as the tilted balance. Members will be aware that the Housing Land Supply shortfall is between 4 and 4.5 years and therefore housing policy COR 17 (which designates a number of rural settlements as 'Villages' wherein development will be limited to minor proposals within their defined settlement limits and to allocations for: affordable housing meeting a local need; small scale employment and tourism; services and facilities serving the locality; and other very limited development which enhances community vitality or meets a local social or economic need) is considered to be out of date. In applying the tilted balance, Members will need to consider what adverse impacts there are as a result of the proposed development and weigh these against the benefits of the scheme. The reason set out above is not a reason in itself for refusing the application. If members propose refusing the application, they will need to clearly identify what the harm (or adverse impact) is which would result from the development. Suggested reason for refusal 3 relates to the tilted balance and seeks to identify the harm that would result from the development.

2.

The sustainability of the site - COR17 designates Willand as a village wherein minor proposals which enhance community viability are considered acceptable. Therefore the principle of some expansion to the housing supply in Willand is accepted in current policy. In addition, Members should note that there is a proposed allocation for 42 dwellings (WI1) on land to the north east and therefore by inference, this location must be considered sustainable. With regards to the site itself, it is well related to the village in sustainability terms that it is connected by continuous footways and located on a bus route which has regular services to Exeter and Tiverton. The proposal includes relocation/redevelopment of existing retail/commercial premises. At the heart of the NPPF is the presumption in favour of sustainable development, which has three mutually dependent dimensions - economic, environmental and social. In the appeal on the adjacent land, the Inspector was satisfied that there would be only minor harm to the character and appearance of the countryside. Given that scale of the current proposal and the developed nature of the part of the site it is considered even less harm to the character and appearance of the countryside would result satisfying the environmental element of the NPPF definition. Further on in this report, members will note officers comments about social cohesion and the economic benefits of the scheme. Given the above, your officers are not satisfied that a reason for refusal based on the unsustainable nature of the site or its location in its own right could be successfully defended at appeal but have included reference to the unsustainable nature of the development in suggested reason for refusal 1 .

3.

The cumulative impact of the current and likely development in respect of the number of housing developments in Willand and the impact of this on the local community - The provision of 30 dwellings is considered to be relatively minor in the context of the village as a whole. 2011 census data for Willand Parish indicates 1368 households so even without allowing for the increase in housing which would have been provided in the

intervening 7 years, this proposal represents only a 2% increase in the number of households in the village. In considering the Uffculme appeal for 30 houses, the Inspector considered the proposed 3% growth in Uffculme would be unlikely to undermine social cohesion in the village. Members will be aware that the Inspector dealing with the appeal for 259 dwellings in Willand did consider that 'there is a vast gulf between the scale of development proposed and what the development plan envisages for villages such as Willand as expressed in CS policy COR 17.' (para 13) but this current application proposes only 30 dwellings with is markedly different from the appeal proposal. Your officers are of the view that a 2% increase in households in the village will not undermine social cohesion to such an extent as to warrant refusal. However, Members also expressed concern that the approval of 30 houses recently in the Uffculme appeal (which followed an earlier appeal where 60 houses were allowed) should be considered in terms of the cumulative impact on Willand. The 90 proposed dwellings are at the very southern end of Uffculme and in many respects the occupiers of those properties may look towards Willand to fulfil their requirements for services and facilities. However, the developers for those sites have paid the required contributions towards facilities within that parish, and Uffculme does have its own level of services and facilities for its community which are not dissimilar to those at Willand. Therefore, your officers cannot support this as a reason for refusal and if members consider this should be a reason for refusal, they will need to be clear about what the cumulative impact of development will be on the local community.

In terms of the impact of future development on the local community, Members will be well aware of the need to consider only the current proposal at this present time. If or when future applications are considered, their impact on the local community will need to be considered at that time.

4. The site was not contiguous and outside of the Local Plan allocation - There is a proposed allocation for 42 houses within the Local Plan Review for a site (WI1) to the north east. It is correct that this application is on land outside and not contiguous with that allocation. This in itself does not indicate 'harm' but Members concerns were largely around whether the proposed development formed a logical extension to the village, given that the site only forms a boundary with the settlement limit to the south and leaves an undeveloped gap of around 300m between the site and the proposed allocation. The existing site is at the southernmost end of the village and is very much on its own in terms of its character, appearance and relationship to the residential dwellings in Old Village. The approval of dwellings on this site, together with an allocation for 42 dwellings on land to the north, will leave a 'gap' of undeveloped land for which there is likely to be pressure for development (in line with the concerns expressed by members in 3) above). Whilst each application must be considered on its own merits, Members may feel that it does demonstrate that the application site will form an unusual and illogical development pattern at the southern end of the village with an essentially stand-alone parcel of residential development which has little or no relationship in terms of built form to the existing village contrary to policy DM2 of the Local Plan Part 3 (Development Management Policies). As such, reason for refusal 2 has been drafted for Members consideration.
5. The loss of community facilities as stated in Policy DM25 – Policy DM25 of the Local Plan Part 3 (Development Management Policies) includes reference to proposals for redevelopment and loss of community facilities stating, 'Proposals for the redevelopment of existing community facilities that enables them to modernise, remain viable and continue to be retained for the benefit of the community will be supported. Proposals involving the loss of community facilities such as local shops, public houses,

allotments, cultural and recreational facilities and other important local services will not be permitted where this would damage the settlement's ability to meet its day to day needs or result in the total loss of such services to the community.'

It is correct to say that this proposal will result in the loss of community facilities. The officer report has already set out that the proposal will result in the demolition of 420sqm of retail and commercial floorspace. The proposal only includes the provision of 340sqm of retail and commercial floorspace so there is a net loss of 80sqm plus the loss of the petrol filling station and car sales. In the appeal, the Inspector considered the existing facilities and services on offer in Willand and took the view that, 'taking into account the existing size of the settlement, they represent a somewhat basic and modest level of provision'. However in line with policy DM25, Members will need to consider whether the loss of these facilities is likely to affect the ability of Willand to meet its day to day needs or result in the total loss of such services to the community. In considering this, Members will need to be mindful of the Culm Valley Car sales which is within walking distance to the south of the site, the existing petrol filling station on the northern edge of Willand on the B3181 and the approval for a Co-op foodstore at Mid Devon Business Park. In coming to a balanced decision, your officers considered that the net loss of 80sqm of retail and commercial floorspace was not significant but Members may consider that the loss of any retail/commercial floorspace from a settlement where the Inspectorate has described the current level of provision as being 'somewhat basic and modest' would damage the settlements ability to meet its day to day needs. To this end, reason for refusal 1 has been provided for Members consideration

6. The impact of the development on the local infrastructure - The officer report has set out what contributions (or on-site provision of infrastructure) are required from the developer as a result of their application (affordable housing, air quality, public open space and primary education). Paragraph 204 of the NPPF and Regulation 122 of the Community Infrastructure Levy Regulations 2011 (as amended) set tests in respect of planning obligations. Obligations should only be sought where they meet the following tests:

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

With regards to this application, the developer is being asked and has confirmed their acceptance to the LPA's requests for contributions/provision in line with the appropriate policies.

With regards to the appeal the Inspector was of the view that he was not 'persuaded that the proposal would make satisfactory provision for the shops and services that would be necessary to meet the growing needs of a village resulting from such rapid and substantial expansion. The influx of new households on the scale proposed would place additional pressure on the overall limited range of services and facilities in the village and whilst I accept that it is not necessary for the proposed development to be self-contained, I consider it would unbalance the settlement and undermine social cohesion.' Members should be mindful that the appeal related to an 18% increase in households, whereas the current application is up to 2% and that the Inspector in the Uffculme appeal felt that a 3% rise in population would not undermine social cohesion in the community. Members should also bear in mind that Inspectors have allowed 90 dwellings (60+30) at Uffculme, (a village with a similar level of provision of services) without any need for infrastructure other than

that which is proposed with this application. To this end, your officers do not consider that this reason for refusal could be successfully defended at appeal.

7. The fact that the proposal was outside the settlement limit. – Given the lack of 5 year Housing Land Supply, it is not sufficient for members to refuse an application purely on the basis of it being located outside a settlement limit. COR18 which seeks to control development in the open countryside is considered to be out-of-date so members are required to apply the titled balance and consider whether there is harm from the development which outweighs the benefits. In the appeal decision, the Inspector advises, ‘As part of its Local Plan review, the Council has allocated land for development on part of the appeal site, which demonstrates a clear recognition that in order to meet its aspirations for housing growth, not all development can take place within the existing built confines of settlements.’ To this end, your officers do not consider that this reason for refusal could be successfully defended at appeal.

3.0 Suggested reasons for refusal

Given the advice set out above, if Members still consider the application should be refused and have considered the financial and legal implications and risk assessment at the head of this report, they are advised to consider the wording of the 3 reasons set out below:

- 1. The application site is outside the current settlement limit boundaries of the village of Willand and is in a countryside location. Policy COR18 of the adopted Mid Devon Core Strategy (Local Plan Part 1) seeks to strictly control development outside settlement limits and a development in this location of the scale as proposed would not be permitted under criteria a - f of this adopted policy. Neither is the site proposed to be allocated for housing within the Councils Local Plan Review 2013 - 2033. The Local Planning Authority cannot demonstrate that it has an adequate five year supply of housing land as required by the National Planning Policy Framework, and therefore Policy COR18 should be afforded limited weight and accordingly the application should be determined against the provisions of Paragraph 14 of the National Planning Policy Framework. When tested against Paragraph 14 of the Framework the Local Planning Authority consider that the adverse impacts of the proposed development in terms of the loss of community facilities and the poor form of development would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework as a whole as well as being contrary to Policy COR1 of the Mid Devon Core Strategy (Local Plan Part 1) and Policy DM1 of the Mid Devon Local Plan Part 3 (Development Management Policies).**
- 2. The proposed application requires the demolition of commercial and retail buildings amounting to 420sqm comprised of garage and shop, hairdressers, restaurant and car mechanics. Whilst the proposal includes the provision of a replacement facility of 340sqm this represents a short fall of 80sqm along with the loss of the petrol filling station and car sales which are considered to be community facilities as set out in Policy DM25. In a community which has been identified as having a ‘somewhat basic and modest level of provision’[appeal ref: APP/Y1138/W/17/31723], the net loss of community facilities is considered to damage the settlements ability to meet its day to day needs contrary to policy DM25 of the Local Plan Part 3 (Development Management Policies) and results in a development which is considered unsustainable given the economic and social harm which would result.**
- 3. The application site only forms a contiguous boundary with the settlement limit of Willand on its eastern boundary. As a result it is considered to form an isolated,**

unusual development pattern at the southern end of the village with an essentially stand-alone parcel of residential development which has little or no relationship in terms of built form to the existing village contrary to policy DM2 of the Local Plan Part 3 (Development Management Policies).

Contact for any more information	Mr Daniel Rance, Principal Planning Officer 01884 234929
Background Papers	Committee report
File Reference	17/00652/MOUT
Circulation of the Report	Cllrs Richard Chesterton Members of Planning Committee

Application No. 17/00652/MOUT

Plans List No. 1

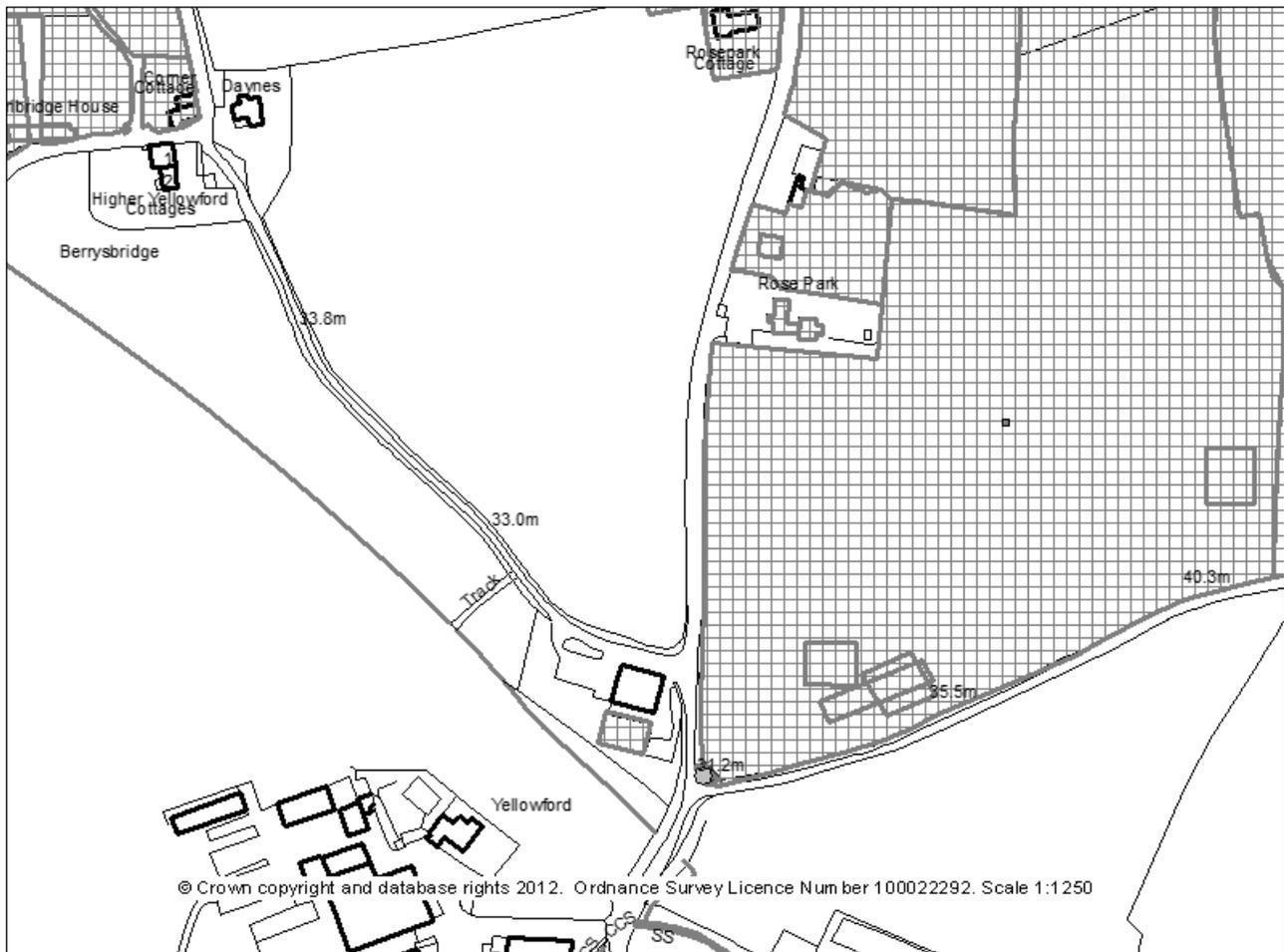
Grid Ref: 303116 : 110179

Applicant: Mr Wheatley

Location: Land at NGR 303116 110179
(NE of Rydon House) Willand
Devon

Proposal: Outline for a mixed
development of 30 dwellings,
commercial buildings, access,
public open space,
landscaping, and associated
works

Date Valid: 24th April 2017



Application No. 17/00652/MOUT

RECOMMENDATION

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

Grant condition subject to the prior signing of a Section 106 agreement to provide for:

21 dwellings x £5,218 = £109,578 air quality contributions.

5 dwellings x £1,205 = £6,025 open space contributions together with the provision of onsite LEAP and sports facilities to provide for refurbishment (of Chestnut Drive Play Area Willand).

£102,390 based on £13,652 per pupil for provision of primary infrastructure for primary facilities education.

The phasing of the works to provide for the commercial units prior to demolition of the existing prior to the occupation of the 5th Market dwelling and Conditions, grant Planning Permission.

PROPOSED DEVELOPMENT

The proposal is an outline application for the erection of 30 dwellings and commercial building 340sqm of use class A 1-5, access, public open space, landscaping, 35% affordable housing and associated works, on land to the south west of Willand village. The proposal includes amending the existing access to the site and includes a further access point via the existing field access. Only the principle of the erection of 30 dwellings and the commercial unit on the site along with the access are to be determined under this outline application. The final layout, scale and appearance of the dwellings and landscaping of the site are reserved for later consideration under a reserved matters application.

The site comprises approximately 2.37 hectares of commercial buildings and agricultural pasture land. The proposal is to demolish the commercial units which will create an area of brownfield land of approximately 0.6 hectares. On site is a petrol garage and forecourt, restaurant, car sales, hairdressers, motor vehicle workshop. To the north and east of the site are presently agricultural fields although a planning application number 16/01811/MOUT for the construction of 259 houses has been submitted and refused, with the resultant appeal determined and dismissed, details of which will be further considered in regard to this application along with the appeal in full at Appendix 1.

There are a couple of residential dwellings immediately to the south west of the site one of which is included as part of this site. To the south east of the main road a collection of detached dwellings are to be found. However the proposed site is located to the extremity of the settlement limits although within walking distance of the facilities within Willand with appropriate foot paths and bus route along the main road.

APPLICANT'S SUPPORTING INFORMATION

Plans
Application Form
Design & Access Statement

PLANNING HISTORY

82/01266/FULL - PERMIT date 29th September 1982

Alterations to living accommodation and public toilets

87/00441/FULL - PERMIT date 9th April 1987

Installations of windows

87/00442/ADVERT - PERMIT date 9th April 1987

Consent to display three illuminated fascia adverts and one illuminated identification free-standing advert

87/00558/FULL - PERMIT date 5th June 1987

Alterations and extension to provide bakery improved service facilities & larger cafe and change of use from cafe to shop; and change of use from office to cafe

93/01914/ADVERT - PERMIT date 10th March 1994

Adv.Con. for the retention & repositioning of internally illumin. (static lit) identification sign & box fascia & installation of internally illumin. (static lit) spreader box sign

94/00283/FULL - PERMIT date 29th March 1994

Erection of extension to canopy
98/01437/FULL - PERMIT date 26th October 1998
Installation of underground petrol storage tank
00/01001/FULL - REFUSE date 4th October 2000
Change of use of land and provision of hard surfacing to facilitate the relocation of car sales area and associated portable car sales building
01/00551/FULL - REFUSE date 26th July 2001
Change of use to form additional car park and picnic area
01/01061/FULL - PERMIT date 27th September 2001
Installation of automated teller machine
02/02480/FULL - PERMIT date 30th January 2003
Installation of an automated teller machine
06/00027/FULL - REFUSE date 27th April 2006
Construction of replacement service station, convert service station forecourt to car sales area and shop to offices
07/00811/FULL - REFUSE date 28th June 2007
Erection of replacement service station, conversion of service station forecourt to car sales area and shop to offices
15/01086/FULL - PERCON date 23rd October 2015
Erection of petrol filling station including sales (200sqm shop), dispensing forecourt and canopy, underground tanks and associated pipework, air/water machine, parking, floodlights, service yard area and new surface finished, removal of existing pumps and relocation of car sales

OTHER HISTORY

16/01976/PREAPP - CLO date 16th June 2017
PROTECT - Development of mixed use retail/housing
16/01976/PREAPP - CLO date 16th June 2017
PROTECT - Development of mixed use retail/housing

DEVELOPMENT PLAN POLICIES

Mid Devon Core Strategy (Local Plan 1)

COR1 - Sustainable Communities

COR2 - Local Distinctiveness

COR3 - Meeting Housing Needs

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/DE/4 - Occupation of Affordable Housing

AL/DE/5 - Inclusive Design and Layout

AL/IN/3 - Public Open Space

Mid Devon Local Plan Part 3 (Development Management Policies)

DM1 - Presumption in favour of sustainable development

DM2 - High quality design

DM8 - Parking

DM21 - Protection of employment land

DM25 - Community facilities

CONSULTATIONS

WILLAND PARISH COUNCIL - 15th May 2017

The Parish Council discussed this application at the meeting on 11 May and has the following response.

This application requires the demolition of the existing, shop, filling station, restaurant, hairdressers, car repair workshops and residential accommodation. It will also require the removal of a car sales area and car parking. The restaurant and hairdressers are the only such businesses in the village.

This demolition will then create a modest area of 'brownfield' site. The larger area of the proposed site consists of open field agricultural land in open countryside. It is appreciated that this application is only for outline permission and access with all other matters reserved but the indicative plans and supporting information does attract comment.

It is considered that the proposed access is acceptable but strong representation is made for the speed limit on the section of the B3181 to be reduced from 40mph to 30mph as a precondition before and works commence. The submitted Transport Statement contains a number of inaccuracies

Paragraph 7 - Willand is a VILLAGE not a TOWN;

Paragraph 13 - Traffic on this stretch of road is heavy at times causing problems for vehicles, including busses, trying to emerge from Old Village at both ends of the stretch. This is likely to increase with developments in Cullompton and on the edge of Uffculme. The road is also the 'bypass' when the M5 is closed for any reason. Comment is made as to the few heavy goods vehicles whilst failing to recognise the weight restriction for the main road. The cumulative effect of these developments will only increase with time and put more pressure on Junction 28 at Cullompton and the roundabout at Waterloo Cross not forgetting the proposed development of land at Junction 27.

Paragraph 15 - There are not footways on both sides of the road as stated. As any children will be encouraged to walk to school along the main road serious consideration needs to be given to the widening

of the footpath where there is no grass verge as the main road approaches the area near to the telephone box and bus stop in Silver Street.

Paragraph 16 - There are 3 bus services using this stretch of road or the nearby junction to Old Village.

Argument is made that the number of journeys made will be reduced if the businesses are removed but an alternative view is that this should only be given very limited weight as many of the recorded journeys are from vehicles calling in as they are passing going to or from destinations in the Cullompton direction. It could be argued that the loss of the business could result in more journeys into Cullompton as residents will have to go to Cullompton for services lost at the site.

The loss of the businesses will adversely affect the sustainability of the village community. The proposal to provide some commercial buildings may be considered as a potential site for a replacement hairdressers and restaurant but these will only be accessed through some housing and will be within the site and not visible from the road as the current businesses are. This may not make them a viable proposition. The proposal for B1 and B8 uses for these commercial units in such close proximity to residential housing is not considered acceptable. The proposed road widths on the estate will be insufficient to cater for such traffic as generated by such businesses when residents or visitors may park on the road in front of houses.

A member of the public has advised that there is an historic well on the site which may be of interest to archaeologists or may have an effect on water courses if disturbed.

A number of COR policies appear to be relevant to this proposal and need to be considered as supporting a refusal to the application. Some of the issues are as follows: -

This will not enhance the self-sufficiency and vitality of the community. It will remove some facilities and add more people to be catered for in the church, preschool, primary school, village hall and youth club all of which are at capacity and not meeting the current need of the current community at times. There is already an identified shortage of public green open space and allotments. Regardless of public transport availability there will be more car journeys which have not been planned for.

It will have the potential to add to housing stock but the emerging local plan has already allocated 42 houses on a site outside of the settlement area of the village which is proportionately larger than the village share for housing across the District - Emerging Local Plan policy Wi1.

Willand is a village and development should be limited to minor proposals within defined settlement limits - COR17 under current plans and S13 under Emerging Local Plan. This area is outside of the settlement area.

This area is in open countryside, with the exception of the current garage, and development should be strictly controlled - COR18 under current plans and S14 under Emerging Local Plan. No case is made to go against this policy.

This application has created considerable interest and comment on social media within the area and at the time of writing only one person has indicated support. This development would be mainly a block of housing isolated from the main part of the village and services and is not considered sustainable or appropriate.

Taking into account the information available, comments outlined above, together with current and emerging policies Willand Parish Council recommend refusal of this application. If approval is considered for recommendation by officers the Parish Council would wish to see the matter decided by Planning Committee.

Highway Authority - 11th May 2017

The site is located on the outskirts of Willand and is in part a substitution of existing uses and traffic generations. It is a matter for the Local Planning Authority to consider the sustainability merits of the site. It is intended to replace the traffic generated of the car sales and Petrol filling station (PFS) with the residential element of the development but retain on the site up to 342 square meters of commercial use, retaining the Cafe /Restaurant, shop, financial and professional services (currently there is a hair salon), office and storage and distribution. The applicant has submitted a transport statement, and has clarified to the Highway

Authority distributions of the existing use of the PFS, shop, other uses and Car sales in the peak hour. The overall generations for the proposal have been shown to be a reduction in daily peak hour movements of 36 movements in the Am Peak and 34 movements in the PM peak. The Local Planning Authority will be aware of the Highway Authority concerns with regard to any additional traffic through the M5 junction 28 in the am peak and while there is an overall reduction, the Highway Authority needed to be satisfied that the movements in that direction are equivalent to or less than the existing generations. The distribution figures indicate that there are some 13 movements travelling to towards Cullompton from the existing uses in the am peak made up of the PFS, Car Sales, shop, and 1 other. The Overall departures in the Am peak from the residential is 12 of which 50 % would be towards Cullompton as demonstrated by the recent planning application on the land adjacent therefore only 6 movements would be attributed to the residential development and 4 from the shop and other uses a total of 10 movements. This indicates a reduction to the existing movements and while the queue lengths at Junction 28 remain a concern and severe it would be unreasonable to recommend refusal of the application due to the reduction no matter how small that may be in material terms. The Highway Authority would seek a contribution to/or the relocation of the East bound bus stop to a location on Willand old village and the provision of a footway link to the west bound stop outside Digger land Therefore the Highway Authority would make no further observations and should consent be granted recommend the following conditions.

Recommendation:

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

1. Off-Site Highway Works No occupation of the development shall take place on site until the off-site highway works for the relocation of the eastbound bus stop into Willand Old Village, and provision of footway from the existing pedestrian crossing to the Westbound stop outside Digger Land have been designed, approved in writing and have been constructed and made available for use.

REASON: To minimise the impact of the development on the highway network in accordance with Paragraph 32 of NPPF.

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

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

3. No part of the development hereby approved shall be commenced until:

- A) The access road has been laid out, kerbed, drained and constructed up to base course level for the first 20.00 metres back from its junction with the public highway
- B) The ironwork has been set to base course level and the visibility splays required by this permission laid out
- C) The footway on the public highway frontage required by this permission has been constructed up to base course level
- D) A site compound and car park have been constructed to the written satisfaction of the Local Planning Authority.

REASON: To ensure that adequate on site facilities are available for all traffic attracted to the site during the construction period, in the interest of the safety of all users of the adjoining public highway and to protect the amenities of the adjoining residents.

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

REASON: To ensure the proper development of the site.

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

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

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

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

D) The street lighting for the spine road and cul-de-sac and footpaths has been erected and is operational;

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

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

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

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

13th December 2017

The development would not receive a recommendation of refusal from the Highway Authority for a change in Speed limit he application has ample visibility in both directions and traffic generation would be equivalent to existing uses. More over TRO are not conditional as they are subject to further consultation and open to objections. Any TRO can be part of the section 38 if our traffic engineers consider a change is within policy or suitable. In the past they have indicated change is not necessary. I will speak to my colleagues again given the proliferation of development at this location. I would advise that the committee that any TRO can be addressed through the section 38 and should be a best endeavours .

DCC - Flood/Coastal Risk Management Team - 17th May 2017

Recommendation:

Although we have no in-principle objection to the above planning application at this stage, the applicant must submit additional information, as outlined below, in order to demonstrate that all aspects of the proposed surface water drainage management system have been considered.

Observations:

Although two suitable strategies have been presented within the submitted Drainage Strategy Statement (Ref. DSS_C06278.170418.2, Rev B, dated 28/04/17) and detailed within Drawing No. WIL-HYD-XX-00-DR-C-1000-P1, Rev. P1, dated 28/04/2017 and Drawing No. WIL-HYD-XX-00-DR-C-1001-P1, Rev. P1, dated 28/04/2017.

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

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

The proposed infiltration strategy proposes a number of SuDS sources control features which is acceptable. It is noted that the proposed attenuation strategy that additional source control features are not shown. This is assumed to meet the criteria for South West Water adoption. However it must be noted that these underground systems cannot be considered as truly sustainable means of drainage because they do not provide the required water quality, public amenity and biodiversity benefits, which are some of the underpinning principles of SuDS.

The applicant should also note that in accordance with the SuDS Management Train, surface water should be managed at source in the first instance. The applicant will therefore at the detailed stage, be required to explore the use of a variety of above-ground source control components across the whole site to avoid managing all of the surface water from the proposed development at one concentrated point (e.g. a single attenuation pond). Examples of these source control components could include permeable paving (which could be underdrained), formalised tree pits or other bioretention features such as rain gardens, as well as green roofs, swales and filter drains.

It is proposed to discharge into a culvert which runs beneath the M5, Highways England should be consulted in order to clarify the the proposed ditch and outfall into this asset is acceptable as the proposed outfall location is likely to be in land controlled by Highways England.

DEVON COUNTY EDUCATION - 11th May 2017

Regarding the above planning application, Devon County Council would need to request an education contribution to mitigate its impact.

The proposed 30 family-type dwellings, will generate an additional 7.5 primary pupils and 4.5 secondary pupils.

The local primary is forecast to be at capacity and therefore Devon County Council will seek a contribution towards the provision of primary infrastructure with regard to these proposed dwellings. Our Primary contribution request is £102,390 (based on the current DfE extension rate of £13,652 per pupil for Devon). This contribution will be used to increase the primary education facilities within the area of the development. There is currently capacity at the local secondary school, therefore a secondary contribution will not be required.

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.

DEVON, CORNWALL & DORSET POLICE - 2nd May 2017

It is appreciated that this is at the outline stage, as such I am unable to comment in depth. However, having reviewed the available drawing which I accept may change, please note the following information, initial advice and recommendations from a designing out crime, fear of crime, antisocial behaviour (ASB) and conflict perspective:-

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

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

There are negative aspects to this application, promoting the opportunity for community conflict and crime and disorder to occur.

- o Numerous dwellings where defensible space is totally missing, and public open space adjoins actual dwellings.
- o Excessive permeability encouraging casual intrusion that is not serving the development, footpaths to the side and rear of dwellings.
- o Isolate parking spaces.
- o Potential conflict between residents and users of proposed commercial units.

Together these form a strong recipe for community conflict, anti-social behaviour and crime that is easily rectified at the design stage but impossible to remedy once built and condemns residents to adverse quality of life issues for decades and the available plan but early consultation with the police frequently prevents delays further down the process when crime and disorder issues present a problem with the layout of a submitted design.

I am happy to arrange a meeting to discuss the issues that cause concern prior to any future applications being submitted and please do not hesitate to contact me if I can assist further.

FORWARD PLANNING - 14th December 2017 - I have reviewed the Forward Planning advice previously provided to you in respect of the proposed development of 30 dwellings, commercial buildings, access, public open space, Landscaping and associated works (application reference 17/00652/MOUT).

I concur with advice that has previously been provided at that time.

However, I am cognisant of the more recent appeal that was dismissed on 3rd November 2017 (application reference 16/01811/MOUT) in respect of the outline planning application for the development of up to 259 dwellings and the Inspector's reasons for this decision - notably the significant weight attached to the conflict with the development plan policies relevant to the scale and distribution of housing in Mid Devon.

I would suggest that there is now merit in weighing up the Forward Planning advice that has previously been provided to you, in light of this appeal decision, and the scale of the current planning proposal that is before you for determination.

16th May 2017

Proposal

Outline Application for a mixed development of 30 dwellings, commercial buildings, access, public open space, landscaping and associated works.

Policy Context

The Adopted Local Plan

The proposal is outside defined settlement limits of the adopted local plan and is therefore contrary to Policy COR17 and COR18 of the Core Strategy (adopted 2007).

Policy DM25 'Community Facilities' of the Local Plan Part 3: Development Management Policies applies, which states that proposals involving the loss of community facilities will not be permitted where this would damage the settlement's ability to meet its day to day needs or result in the total loss of such services to the community. Only in circumstances where the facility is proven to be no longer economically viable, including for alternative community use, will applications for alternative use be considered acceptable.

Local Plan Review

The Local Plan Review process is well advanced. A pre-submission draft plan was the subject of public consultation between February and April 2015. In response to these representations, and as a result of ongoing discussions with statutory consultees, the Local Plan Review Proposed Submission (incorporating proposed modifications) went out for consultation 3 January - 14 February 2017. The Local Plan Review was subsequently submitted to the Secretary of State on 31 March 2017 and is clearly gaining statutory weight as it advances through the process.

The Local Plan Review concentrates development primarily at the towns as stated in Policy S2. "Other settlements will have more limited development which meets local needs and promotes vibrant communities".

Policy S13 makes it clear that development will be limited to within defined settlement limits. Willand does benefit from settlement limits however this outline proposal is outside of the area covered by these settlement limits.

Policy DM23 states that proposals involving the loss of community facilities will not be permitted where this would damage the settlement's ability to meet its day to day needs or result in the total loss of such services to the community. Only in circumstances where the facility is proven to be no longer economically viable, including for alternative community uses, will applications for alternative use be considered acceptable.

Conclusion

The proposal does not have current or emerging planning policy support given the site is outside of the defined settlement limits of current and emerging Local Plans. Whilst the Local Planning Authority currently does not have a full five year housing land supply, it is considered that the scale of the development and the resulting imbalance in housing and local services would result in unsustainable development contrary to the National Planning Policy Framework.

The Council also has concerns over the net loss of local community/commercial facilities. Whilst it is acknowledged that 342 square metres of commercial development would be provided, the development would result in an overall net loss of 244 square metres. The applicant must provide justification for this loss to the satisfaction of Mid Devon District Council in accordance with policy DM25 of the Adopted Local Plan and DM23 of the emerging Local Plan Review.

NATURAL ENGLAND - 16th May 2017

The Wildlife and Countryside Act 1981 (as amended).
The Conservation of Habitats and Species Regulations 2010 (as amended)

Natural England's comments in relation to this application are provided in the following sections.
Statutory nature conservation sites - no objection

Based upon the information provided, Natural England advises the Council that the proposal is unlikely to affect any statutorily protected sites or landscapes.

Protected species

We have not assessed this application and associated documents for impacts on protected species. Natural England has published Standing Advice on protected species. You should apply our Standing Advice to this application as it is a material consideration in the determination of applications in the same way as any individual response received from Natural England following consultation.

The Standing Advice should not be treated as giving any indication or providing any assurance in respect of European Protected Species (EPS) that the proposed development is unlikely to affect the EPS present on the site; nor should it be interpreted as meaning that Natural England has reached any views as to whether a licence is needed (which is the developer's responsibility) or may be granted.

If you have any specific questions on aspects that are not covered by our Standing Advice for European Protected Species or have difficulty in applying it to this application please contact us with details at consultations@naturalengland.org.uk.

Priority Habitat as identified on Section 41 list of the Natural Environmental and Rural Communities (NERC) Act 2006. The consultation documents indicate that this development includes an area of priority habitat, as listed on Section 41 of the Natural Environmental and Rural Communities (NERC) Act 2006. The National Planning Policy Framework states that 'when determining planning applications, local planning authorities

should aim to conserve and enhance biodiversity. If significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.'

Local sites

If the proposal site is on or adjacent to a local site, e.g. Local Wildlife Site, Regionally Important Geological/Geomorphological Site (RIGS) or Local Nature Reserve (LNR) the authority should ensure it has sufficient information to fully understand the impact of the proposal on the local site before it determines the application.

Biodiversity enhancements

This application may provide opportunities to incorporate features into the design which are beneficial to wildlife, such as the incorporation of roosting opportunities for bats or the installation of bird nest boxes. The authority should consider securing measures to enhance the biodiversity of the site from the applicant, if it is minded to grant permission for this application.

This is in accordance with Paragraph 118 of the National Planning Policy Framework. Additionally, we would draw your attention to Section 40 of the Natural Environment and Rural Communities Act (2006) which states that 'Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity'. Section 40(3) of the same Act also states that 'conserving biodiversity includes, in relation to a living organism or type of habitat, restoring or enhancing a population or habitat'.

Landscape enhancements

This application may provide opportunities to enhance the character and local distinctiveness of the surrounding natural and built environment; use natural resources more sustainably; and bring benefits for the local community, for example through green space provision and access to and contact with nature. Landscape characterisation and townscape assessments, and associated sensitivity and capacity assessments provide tools for planners and developers to consider new development and ensure that it makes a positive contribution in terms of design, form and location, to the character and functions of the landscape and avoids any unacceptable impacts.

Sites of Special Scientific Interest Impact Risk Zones

The Town and Country Planning (Development Management Procedure) (England) Order 2015 requires local planning authorities to consult Natural England on "Development in or likely to affect a Site of Special Scientific Interest" (Schedule 4, w). Our SSSI Impact Risk Zones are a GIS dataset designed to be used during the planning application validation process to help local planning authorities decide when to consult Natural England on developments likely to affect a SSSI. The dataset and user guidance can be accessed from the data.gov.uk website.

We would be happy to comment further should the need arise but if in the meantime you have any queries please do not hesitate to contact us.

For any queries regarding this letter, for new consultations, or to provide further information on this consultation please send your correspondences to consultations@naturalengland.org.uk.

ENVIRONMENTAL HEALTH - 2nd May 2017

Contaminated Land - I acknowledge the detail in the planning statement and the conditions below should be included in any full application.

Air Quality - no objections to this proposal

Environmental Permitting - no objections to this proposal

Drainage - no objections to this proposal

Noise & other nuisances - no objections to this proposal

Housing Standards - No comment

Licensing - No Comments

Food Hygiene - Not applicable

Private Water Supplies - Not applicable

Health and Safety - No objections

Contaminated Land

As identified in the desk study the area currently used as a garage will need further assessment so the following conditions will need to be included:

1. Site Characterisation

An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

(i) a survey of the extent, scale and nature of contamination;

(ii) an assessment of the potential risks to:

o human health,

o property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,

o adjoining land,

o groundwaters and surface waters,

o ecological systems,

o archeological sites and ancient monuments;

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

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

2. Submission of Remediation Scheme

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

3. Implementation of Approved Remediation Scheme

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority.

The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

4. Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 1, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 2, which is subject to the approval in writing of the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 3.

REPRESENTATIONS

CONSULTATIONS

WILLAND PARISH COUNCIL - 15th May 2017

The Parish Council discussed this application at the meeting on 11 May and has the following response. This application requires the demolition of the existing, shop, filling station, restaurant, hairdressers, car repair workshops and residential accommodation. It will also require the removal of a car sales area and car parking. The restaurant and hairdressers are the only such businesses in the village. This demolition will then create a modest area of 'brownfield' site. The larger area of the proposed site consists of open field agricultural land in open countryside. It is appreciated that this application is only for outline permission and access with all other matters reserved but the indicative plans and supporting information does attract comment.

It is considered that the proposed access is acceptable but strong representation is made for the speed limit on the section of the B3181 to be reduced from 40mph to 30mph as a precondition before and works commence. The submitted Transport Statement contains a number of inaccuracies

Paragraph 7 - Willand is a VILLAGE not a TOWN;

Paragraph 13 - Traffic on this stretch of road is heavy at times causing problems for vehicles, including busses, trying to emerge from Old Village at both ends of the stretch. This is likely to increase with developments in Cullompton and on the edge of Uffculme. The road is also the 'bypass' when the M5 is closed for any reason. Comment is made as to the few heavy goods vehicles whilst failing to recognise the weight restriction for the main road. The cumulative effect of these developments will only increase with time and put more pressure on Junction 28 at Cullompton and the roundabout at Waterloo Cross not forgetting the proposed development of land at Junction 27.

Paragraph 15 - There are not footways on both sides of the road as stated. As any children will be encouraged to walk to school along the main road serious consideration needs to be given to the widening of the footpath where there is no grass verge as the main road approaches the area near to the telephone box and bus stop in Silver Street.

Paragraph 16 - There are 3 bus services using this stretch of road or the nearby junction to Old Village. Argument is made that the number of journeys made will be reduced if the businesses are removed but an alternative view is that this should only be given very limited weight as many of the recorded journeys are from vehicles calling in as they are passing going to or from destinations in the Cullompton direction. It could be argued that the loss of the business could result in more journeys into Cullompton as residents will have to go to Cullompton for services lost at the site.

The loss of the businesses will adversely affect the sustainability of the village community. The proposal to provide some commercial buildings may be considered as a potential site for a replacement hairdressers and restaurant but these will only be accessed through some housing and will be within the site and not visible from the road as the current businesses are. This may not make them a viable proposition. The proposal for B1 and B8 uses for these commercial units in such close proximity to residential housing is not considered acceptable. The proposed road widths on the estate will be insufficient to cater for such traffic as generated by such businesses when residents or visitors may park on the road in front of houses.

A member of the public has advised that there is an historic well on the site which may be of interest to archaeologists or may have an effect on water courses if disturbed.

A number of COR policies appear to be relevant to this proposal and need to be considered as supporting a refusal to the application. Some of the issues are as follows: -

This will not enhance the self-sufficiency and vitality of the community. It will remove some facilities and add more people to be catered for in the church, preschool, primary school, village hall and youth club all of

which are at capacity and not meeting the current need of the current community at times. There is already an identified shortage of public green open space and allotments. Regardless of public transport availability there will be more car journeys which have not been planned for.

It will have the potential to add to housing stock but the emerging local plan has already allocated 42 houses on a site outside of the settlement area of the village which is proportionately larger than the village share for housing across the District - Emerging Local Plan policy Wi1.

Willand is a village and development should be limited to minor proposals within defined settlement limits - COR17 under current plans and S13 under Emerging Local Plan. This area is outside of the settlement area.

This area is in open countryside, with the exception of the current garage, and development should be strictly controlled - COR18 under current plans and S14 under Emerging Local Plan. No case is made to go against this policy.

This application has created considerable interest and comment on social media within the area and at the time of writing only one person has indicated support.

This development would be mainly a block of housing isolated from the main part of the village and services and is not considered sustainable or appropriate.

Taking into account the information available, comments outlined above, together with current and emerging policies Willand Parish Council recommend refusal of this application. If approval is considered for recommendation by officers the Parish Council would wish to see the matter decided by Planning Committee.

HIGHWAY AUTHORITY - 11th May 2017

The site is located on the outskirts of Willand and is in part a substitution of existing uses and traffic generations. It is a matter for the Local Planning Authority to consider the sustainability merits of the site. It is intended to replace the traffic generated of the car sales and Petrol filling station (PFS) with the residential element of the development but retain on the site up to 342 square meters of commercial use, retaining the Cafe /Restaurant, shop, financial and professional services (currently there is a hair salon), office and storage and distribution. The applicant has submitted a transport statement, and has clarified to the Highway Authority distributions of the existing use of the PFS, shop, other uses and Car sales in the peak hour. The overall generations for the proposal have been shown to be a reduction in daily peak hour movements of 36 movements in the Am Peak and 34 movements in the PM peak. The Local Planning Authority will be aware of the Highway Authority concerns with regard to any additional traffic through the M5 junction 28 in the am peak and while there is an overall reduction, the Highway Authority needed to be satisfied that the movements in that direction are equivalent to or less than the existing generations. The distribution figures indicate that there are some 13 movements travelling to towards Cullompton from the existing uses in the am peak made up of the PFS, Car Sales, shop, and 1 other. The Overall departures in the Am peak from the residential is 12 of which 50 % would be towards Cullompton as demonstrated by the recent planning application on the land adjacent therefore only 6 movements would be attributed to the residential development and 4 from the shop and other uses a total of 10 movements. These indicates a reduction to the existing movements and while the queue lengths at Junction 28 remain a concern and severe It would be unreasonable to recommend refusal of the application due to the reduction no matter how small that may be in material terms. The Highway Authority would seek a contribution to/or the relocation of the East bound bus stop to a location on Willand old village and the provision of a footway link to the west bound stop outside Digger land Therefore the Highway Authority would make no further observations and should consent be granted recommend various conditions which are set out below.

The Highways authority have been re-consulted on the need to reduce the speed limit at this site there comment is set out below;

The development would not receive a recommendation of refusal from the Highway Authority for a change in speed limit, there is ample visibility, and traffic generation is equivalent to existing use. The change in speed limits is not conditional and need to be undertaken through section 38. If it is considered appropriate and within policy this matter can be addressed through section 38 at a later date.

LEAD LOCAL FLOOD AUTHORITY - 17th May 2017

Recommendation:

Although we have no in-principle objection to the above planning application at this stage, the applicant must submit additional information, as outlined below, in order to demonstrate that all aspects of the proposed surface water drainage management system have been considered.

The applicant will also be required to submit Micro Drainage model outputs, or similar, in order to demonstrate that all components of the proposed outline surface water drainage system have been sized and designed to the 1 in 100 year (+40% allowance for climate change) rainfall event and that the proposed locations adequate space is allocated within the proposed development.

The proposed SuDS and the proposed attenuation strategy is assumed to meet the criteria for South West Water adoption.

It is proposed to discharge into a culvert which runs beneath the M5, Highways England should be consulted in order to clarify the proposed ditch and outfall into this asset is acceptable as the proposed outfall location is likely to be in land controlled by Highways England.

DEVON COUNTY EDUCATION - 11th May 2017

Regarding the above planning application, Devon County Council would need to request an education contribution to mitigate its impact.

The proposed 30 family-type dwellings will generate an additional 7.5 primary pupils and 4.5 secondary pupils.

The local primary is forecast to be at capacity and therefore Devon County Council will seek a contribution towards the provision of primary infrastructure with regard to these proposed dwellings. Our Primary contribution request is £102,390 (based on the current DfE extension rate of £13,652 per pupil for Devon).

DEVON, CORNWALL & DORSET POLICE - 2nd May 2017

It is appreciated that this is at the outline stage; as such I am unable to comment in depth. However, having reviewed the available drawing which I accept may change, please note the following information, initial advice and recommendations from a designing out crime, fear of crime, antisocial behaviour (ASB) and conflict perspective:-

The seven attributes of Crime Prevention Through Environmental Design (CPTED) are key to ensuring a safe and sustainable community and in addition to the layout; the physical security is now a consideration. There are negative aspects to this application, promoting the opportunity for community conflict and crime and disorder to occur.

Dwellings where defensible space is totally missing, and public open space adjoins actual dwellings. Excessive permeability encouraging casual intrusion that is not serving the development, footpaths to the side and rear of dwellings. Isolate parking spaces. Potential conflict between residents and users of proposed commercial units.

Together these form a strong recipe for community conflict, anti-social behaviour and crime that is easily rectified at the design stage.

FORWARD PLANNING - 16th May 2017

Proposal

Outline Application for a mixed development of 30 dwellings, commercial buildings, access, public open space, landscaping and associated works.

Policy Context

The Adopted Local Plan

The proposal is outside defined settlement limits of the adopted local plan and is therefore contrary to Policy COR17 and COR18 of the Core Strategy (adopted 2007).

Policy DM25 'Community Facilities' of the Local Plan Part 3: Development Management Policies applies, which states that proposals involving the loss of community facilities will not be permitted where this would damage the settlement's ability to meet its day to day needs or result in the total loss of such services to the community. Only in circumstances where the facility is proven to be no longer economically viable, including for alternative community use, will applications for alternative use be considered acceptable.

Local Plan Review

The Local Plan Review process is well advanced. A pre-submission draft plan was the subject of public consultation between February and April 2015. In response to these representations, and as a result of ongoing discussions with statutory consultees, the Local Plan Review Proposed Submission (incorporating proposed modifications) went out for consultation 3 January - 14 February 2017. The Local Plan Review was subsequently submitted to the Secretary of State on 31 March 2017 and is clearly gaining statutory weight as it advances through the process.

The Local Plan Review concentrates development primarily at the towns as stated in Policy S2. "Other settlements will have more limited development which meets local needs and promotes vibrant communities".

Policy S13 makes it clear that development will be limited to within defined settlement limits. Willand does benefit from settlement limits however this outline proposal is outside of the area covered by these settlement limits.

Policy DM23 states that proposals involving the loss of community facilities will not be permitted where this would damage the settlement's ability to meet its day to day needs or result in the total loss of such services to the community. Only in circumstances where the facility is proven to be no longer economically viable, including for alternative community uses, will applications for alternative use be considered acceptable.

Conclusion

The proposal does not have current or emerging planning policy support given the site is outside of the defined settlement limits of current and emerging Local Plans.

Whilst the Local Planning Authority currently does not have a full five year housing land supply, it is considered that the scale of the development and the resulting imbalance in housing and local services would result in unsustainable development contrary to the National Planning Policy Framework. The Council also has concerns over the net loss of local community/commercial facilities. Whilst it is acknowledged that 342 square metres of commercial development would be provided, the development would result in an overall net loss of 244 square metres. The applicant must provide justification for this loss to the satisfaction of Mid Devon District Council in accordance with policy DM25 of the Adopted Local Plan and DM23 of the emerging Local Plan Review.

Additional comments from planning policy following the receipt of the recent appeal adjacent to the site.

I have reviewed the Forward Planning advice previously provided to you in respect of the proposed development of 30 dwellings, commercial buildings, access, public open space, Landscaping and associated works (application reference 17/00652/MOUT).

I concur with advice that has previously been provided at that time.

However, I am cognisant of the more recent appeal that was dismissed on 3rd November 2017 (application reference 16/01811/MOUT) in respect of the outline planning application for the development of up to 259 dwellings and the Inspector's reasons for this decision - notably the significant weight attached to the conflict with the development plan policies relevant to the scale and distribution of housing in Mid Devon.

I would suggest that there is now merit in weighing up the Forward Planning advice that has previously been provided to you, in light of this appeal decision, and the scale of the current planning proposal that is before you for determination.

NATURAL ENGLAND - 16th May 2017

The Wildlife and Countryside Act 1981 (as amended).

The Conservation of Habitats and Species Regulations 2010 (as amended)

Natural England's comments in relation to this application are provided in the following sections.

Statutory nature conservation sites - no objection

ENVIRONMENTAL HEALTH - 2nd May 2017

Contaminated Land - I acknowledge the detail in the planning statement and specific conditions should be included in any full application.

No objections to the rest

REPRESENTATIONS

There have been 72 comments received objecting to the proposal the following is a summary of those comments

1. Waste of green space
2. Petrol station and hairdressers are well used and a vital part of the village
3. Schools are at capacity
4. Parking and traffic in Willand is congested
5. Strain on local resources
6. Outside the settlement limits
7. Willand is a village not a town
8. The restaurant is well used and needs to stay

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The main issues in the determination of this application are:

1. Principle of development including 5 year housing land supply and sustainability
2. Recent Appeal Case
3. Highways and highway safety

4. Flood risk and drainage
5. Indicative layout, including parking and potential impacts
6. Landscape, visual amenity, ecology, archaeology
7. Section 106 including affordable housing, education and public open space and other financial considerations
8. Provision of commercial space
9. Planning balance

1. Principle of development including 5 year housing land supply and sustainability

Policy COR1 of the Mid Devon Core Strategy (LP1) 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 COR12 focuses development on the towns and states that other defined settlements should have only limited development to meet local needs and promote rural regeneration.

Policy COR17 provides a definition of villages with defined settlement limits and sets out the type and scale of development that is acceptable within defined settlement limits and permitted on allocations outside settlement limits. These villages are characterised by having some local facilities and employment and access to public transport. Outside defined settlements, policy COR18 seeks to control development to appropriate rural uses including affordable housing to meet local needs (which can be cross-subsidised by market housing where necessary in accordance with policy DM9 of the Local Plan 3 Development Management Policies).

The development is proposed on agricultural, commercial/brown land in the countryside. The site is not allocated and is not being proposed for affordable housing. The proposal is therefore considered to be contrary to policies COR17 and COR18 of the Mid Devon Core Strategy.

However, Members will be aware that Mid Devon has been found not to be able to demonstrate a 5 year housing land supply. The NPPF advises that where a five year land supply of deliverable housing sites cannot be demonstrated, policies on housing supply should not be considered up to date. This includes settlement limits identifying areas which are open countryside and those which are within defined settlements.

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.

Policies COR17 and COR18 are directly relevant to the supply of housing in the District and are now considered to be out of date. This does not mean that Mid Devon's policies must be cast aside, but the weight given to them is proportionate to their consistency with the National Planning Policy Framework (NPPF).

The NPPF contains a presumption in favour of sustainable development. It requires local authorities to "boost significantly the supply of housing" and to consider housing applications in the context of the presumption in favour of sustainable development. To promote development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. This is reflected in policy DM1 of the Local Plan 3 Development Management Policies which takes a positive approach to sustainable development, allowing development to be approved wherever possible.

The NPPF states that to achieve sustainable development, economic, social and environmental gains should be sought jointly and simultaneously through the planning system. The planning system should play an active role in guiding development to sustainable solutions. Planning should actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations that are or can be made sustainable.

At paragraph 55, the NPPF states that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. For example, where there are groups of smaller settlements, development in one village may support services in a village nearby. Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances.

At paragraph 54, the NPPF states that in rural areas, local planning authorities should be responsive to local circumstances and plan housing development to reflect local needs, particularly for affordable housing, including through rural exception sites where appropriate.

The development is on part agricultural part commercial part brown field land and at present the entirety of the site lies outside the defined settlement limit for the village of Willand.

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

Part of the site (the agricultural land) was put forward in the Strategic Housing land Availability Assessment (SHLAA) as site 5 land to rear of Willand service station. Stated within this assessment it considered the site to be in close proximity to the existing settlement, no European wildlife sites or designations, flood zone 1, although some priority woodland along the south western edge (M5). The only concerns raised were the potential noise impact on residential amenity.

2. Recent Appeal Case Land off Silver Street Willand

There is a very recent appeal decision which must be considered in assessing the appropriateness of this application.

The adjacent site was submitted for planning approval for 259 dwellings the application was refused on three reasons.

1. Additional vehicular movements and impact on capacity in the vicinity of Junction 28 of the M5 Motorway.
 2. Large scale development, unplanned, and development of this scale is planned for Cullompton area.
 3. The proposal would be out of scale with the size of the settlement of Willand and be unsustainable.
- The inspector considered these reasons when assessing the appropriateness of the application. And assessed the proposal on two substantive grounds
- i) The development plan strategy for the location of housing, the framework and the scale of the development in relation to Willand, and
 - ii) Its effect on the efficient operation of the highway network in the vicinity of junction 28 of the M5, including having regard to any proposed mitigation measures.

His conclusion was

- i) There is conflict with policies COR17 and COR18. Some harm to the landscape, but reasonably well screened, and change the character of the area which would only be minor. As part of the Local Plan review part of the site is allocated for housing thus indicating that to meet growth there is a requirement to look outside the confines of the settlement limit, although for the level of development to be adequately supported by infrastructure etc. There are basic and modest provisions of services presently for the village. The inspector considered the appeal associated with Uffculme (30 dwellings) and drew similarities with Uffculme in terms of shops and services but considered a growth of 20% to be un-acceptable and undermine social cohesion in the village. Therefore the scale of the development was in conflict with policies COR1 and COR12 and the overall size of the development was excessive for the village of Willand.
- ii) Highways England (HE) has no objection on impacts to M5, Devon County Council (DCC) has issues with capacity of the roads in and around Cullompton. It was stated that there would be an adverse effect on the flow of traffic along Station road, around junction 28 and along the High street at AM peak traffic times. Even taking into consideration the development within and around Cullompton and the numbers

associated with the proposed application the 5% increase in numbers of vehicles would have a negligible effect on overall traffic volume and flow. There is a regular bus service between Willand and Exeter, and opportunities to access the railway station at Tiverton parkway via a cycle ride of 3.6km, along with an available car park at the station. The inspector concluded that the proposal would be compliant with policies COR1 and COR9.

iii) With regard to the lack of 5 year land supply the proposed supply of the 259 dwellings to contribute to housing supply carries significant weight. However the emerging Local Plan review envisages 42 dwellings including 30% affordable, which is substantially below that proposed. The inspector judged that the proposed would not create a mixed and balanced community as promoted by the NPPF, with no provision of shops or services and facilities for the village, and so would unbalance the settlement and undermine social cohesion.

The planning balance concluded that no harm to highway network, or countryside. There would be economic benefit and a substantial increase in the availability of housing in Mid Devon. However significant weight is placed on the conflict with policies and the scale of the scheme impacting on the sustainability of Willand as a Village. Therefore the appeal was dismissed.

When considering the proposed scheme for 30 dwellings at this site some of the same issues apply to this case. It is unlikely that there will be any adverse impact on highways and indeed DCC has confirmed they have no concerns. The reason for dismissal of the appeal is the number of houses and its scale which would be imposed on the village of Willand. This proposal is modest in size (30 dwellings) along with commercial space. The emerging plan considers 40 dwellings to be acceptable for Willand; the inspector indicates 3% increase is acceptable based on Uffculme (following the previous 60 houses approved at appeal earlier) which has a residential number of approximately 1000 units, a 3% increase in dwellings associated with Willand based on 1368 house units (approx. based on 2011 census.) equates to 41 houses.

Although following a recent analysis of Willand households to-date that figure has risen to 1419 house units a net increase since the census of 51 dwellings over the past 6 years or so. This additional proposal will potentially provide a further 30 dwellings a cumulative increase of potentially 81 households over this time period and beyond to when developed.

This increase includes all windfall developments within the village settlement limits, both open market and affordable.

The present allocated plan for Willand includes 10 affordable units at AL/WI/1 (Willand Moor) and AL/WI/2 (West of B1381) 35 Affordable units, 28 (Silver Street 17/01179/MFUL) + 7 (13/00993/Full) of which have been provided or consented on this site. Therefore the proposal over the lifetime of the plan is 45 units with additional windfall sites.

The emerging Local Plan is considering 40 dwellings located at WI1 Meadow Park which includes part of the West of B3181 site which has already been consented and built out (7 units) remaining number being 33 units. Therefore there is a total increase over the life time of the two plans of 78 units within allocated sites not including any potential windfall sites.

The numbers proposed in this application maintain or closely relate to the expected increase over the lifetime of the two Local Plans.

3. Highways and highway safety

Primary access to the site is proposed to be derived from an altered existing access onto the B3181 (Silver Street), with additional pedestrian accesses off Silver Street and a vehicular access point also being provided from Silver Street. The Highway Authority has indicated that it is satisfied with these arrangements and the layout of the new access onto the B3181. From a technical access perspective the access is acceptable. The Highway Authority has raised no concerns with regard to highway safety in the immediate vicinity of the application site and on this basis objections from members of the public in relation to such matters are not agreed with.

The application is supported by a transport statement which includes trip figures in relation to vehicle movements at two times of the day and that there will be an overall reduction in traffic generated from the

site.

The figures are a snapshot in time and may not fully show the impacts of the proposed development on other parts of the highway network. J28 of the M5 at Cullompton has been the subject of queue monitoring, which identifies significant queues of traffic in the AM peak looking to reach the junction or pass over its bridge. These queues arise from the introduction of traffic signals at the junction which have reduced queue lengths of vehicles exiting the motorway, thus eliminating a previous highway safety concern but have exacerbated issues on the County network when combined with the poor operation of the roundabout serving the northbound on and off slips and the services. The queue monitoring has shown the junction to be over capacity in respect of the County network and this will be further worsened by a major development for 266 dwellings currently under construction in Cullompton (known as Saxon Fields).

With these proposals and the information submitted the Authority still has major concerns with regard to the capacity of Junction 28 and the number of further dwellings on this site. The trip indicator does not take into consideration other development potential within the area.

However the recent appeal decision for the dismissal of the application for 259 dwellings on the adjacent site considered the impact the proposed would have on Junction 28, and concluded that there is a residual issue in this particular respect, and have a negligible effect on overall traffic volume and flows. It is therefore considered that this proposal for 30 dwellings and associated commercial space would receive a similar consideration if the proposal is considered for refusal on this aspect.

4. Flood risk and drainage

The site is in flood zone 1 and not liable to fluvial flooding. The LLFA have no in-principle objection to the proposed at this stage but would want to see further additional information to include Micro drainage model outputs, to ensure all drainage systems have been sized correctly. Also they require information regarding adoption and maintenance of the proposed surface water management system to ensure operation throughout its lifetime.

The proposed infiltration strategy proposes a number of SuDs sources control feature. However there is no proposed attenuation strategy and surface water should be managed at source. This detail could be supplied at reserved matter stage and considered then.

5. Indicative layout, including parking and potential impacts

2011 Census data for the Willand parish indicates a population of 3360 persons in 1368 households; since 2011 there has been minor new developments in the parish and so these figures are still fairly representative. However a recent interrogation of Willand mapping system shows there has been an increase in dwelling numbers since 2011 and the figure is now 1419 dwelling within the existing settlement limits of Willand. The potential addition of a further 30 new dwellings at this site would provide only a very small increase in the number of households in the parish. This would represent an acceptable increase in the size and scale of the village and also of the resident population, the proposal is considered to be minor development within the context of policy COR17.

Concerns have been expressed by the Parish Council and objectors with regard to the impact of development upon the infrastructure and facilities available in the village.

At present within the existing settlement limits the village is served by three shops (one of which contains a post office and one which is relatively small and associated with a petrol filling station), a public house, hot food takeaway, branch doctors surgery, village hall, youth club, tennis courts and playing fields, pre-school and primary school, football club and clubhouse (licensed and holds events). Outside the settlement limit within this application site is a petrol filling station with associated shop, restaurant, beauty salon, car repair garage and car sales. Planning permission exists on this site for a replacement garage and shop, to the north of Willand a food retail outlet of approximately 300 square metres on land at the Mid Devon Business Park but at the time of writing is unimplemented.

Nevertheless, these facilities are relatively dispersed throughout the village and for a settlement of this size it is unusual for there not to be a village core where the bulk of facilities are located and the overall number of shops and facilities could be considered as low. In comparison to, Bampton also (and proposed to be

relabelled as a village in the emerging Local Plan) has a population (by Parish) approximately half that of Willand but has more shops, pubs and restaurants as well as a library, primary school, two public halls and recreational facilities.

In addition to the aforementioned facilities, there is a significant amount of employment floorspace in the village at South View Industrial Estate and the adjacent Mid Devon Business Park and slightly further afield at the 2Sisters site and Stan Robinson warehousing and logistics depot, both of which are located within a short walking distance of the village and accessible via the underpass below the M5 by the junction of Gables Road.

The findings of the Inspector for an appeal for 60 dwellings adjacent to Uffculme in 2016 (known as Harvesters) are relevant in relation to the scale of development and considerations of sustainability. The Inspector found that it would be unrealistic to expect the village of Uffculme to achieve self-containment but nevertheless found that in a rural context, the village is a sustainable location for development. Public transport access is suitable for journeys to work and the mainline rail station is within cycling distance along a recognised cycle route. In respect of these points, Willand is in a very similar position as it is on the same bus routes as Uffculme and links to the mainline rail station via the national cycle network within a relatively short distance. The village is not served by a secondary school or library unlike Uffculme, however these are available within approximately 3 miles via public transport in either Uffculme or Cullompton and additionally there is a 4-weekly mobile library service to the village.

As part of the application, financial contributions have been requested by the County Council in respect of primary, education provision and legal costs. The applicant has agreed to contribute these requested financial sums.

In addition the application would deliver on-site public open space (POS) including a LEAP (locally equipped area of play) and a football pitch; the policy requirement is for an area of approximately 1,800sqm of POS and the currently submitted indicative layout and information states there is 0.54ha of Public Open Green Space (informal & Play) but this appears to include land required for the swale. However, it is accepted that the site is capable of accommodating the required amount of open space for the number of dwellings proposed. An off-site contribution by way of a financial contribution can be considered if insufficient space is to be provided.

Policy DM8 requires 1.7 parking spaces per dwelling to be provided on site and 4 cycle parking spaces per dwelling (3+ beds).

The proposed parking layout indicates scattered parking around the site with no specific parking to any of the units. This is not an acceptable style of parking the Authority would be looking for and would want to see these spaces with each of the properties. There is no indication on the plans as to cycle spaces or refuse collection. It is expected that this will be considered at reserved matters stage.

Whilst the plan is indicative only, it demonstrates that 30 dwellings can be accommodated on the site without there being an unacceptable loss of privacy for amenity for neighbouring residents, subject to orientation and sufficient separation distances being provided between new and existing dwellings. The outlook from existing dwellings along the site boundary would change but this change in itself would not warrant refusal of the application. There is no requirement to preserve a private view in considering a planning application. Some of the amenity spaces of the proposed are small and confined which will need to be addressed at any possible reserved matters stage. In addition the houses onto the main highway turn their back on the road and are inward facing; this is not an acceptable design and creates a non-inclusive atmosphere to the proposed site.

Following further discussions with the applicant's agent it has been discussed to provide the commercial/retail space to the right of the access facing the highway with appropriate levels of parking to ensure there is no requirement to reverse out onto the main highway. It is also appropriate to ensure there is continuity between the existing commercial units which wish to remain and transfer to the new units. Therefore the section 106 agreement will provide for the construction and availability of the commercial units prior to the demolition of the existing.

The Highways Authority has confirmed that at this stage there is no requirement to alter the speed limit

outside the site. Although they will monitor the situation.

6. Landscape, visual amenity, ecology, archaeology

The Mid Devon Landscape Character Assessment identifies the site as being within the Lowland Plains character area, which is typified by a low lying flat landscape with gently rolling middle ground. In support of the application is a submitted Landscape and Visual Impact Assessment.

The level of harm arising as a result of this development is not significant when looking at the application as a whole and considering the substantial delivery of housing that would arise. Furthermore, the majority of trees and hedges on the site are proposed for retention and with additional landscaping this vegetation will result in middle to long distance views toward the site being largely unaltered and would help to soften the impact of a significant number of houses being constructed. Overall, the impact upon the quality of the landscape and the visual impact of the development is not significant and limited harm would arise, thereby meeting with the requirements of the development plan in this respect.

Landscaping is a reserved matter. The application does not specify any landscaping, the site is fairly well screened from the north but will require delicate screening and planting to the south and east. However landscaping will be addressed at the reserved matters stage, should the application be approved. The development is considered to be in accordance with policies COR2 of the Mid Devon Core Strategy (LP1) and DM2 in this respect.

It is considered that should permission be granted that a condition be imposed on any planning permission to ensure that archaeological investigation is carried out before the development is constructed, this is to ascertain the importance or not of the suggested well in the area. The development would be in accordance with policy DM27 of the LP3 DMP in this respect.

7. Provision of commercial space

The site consists of a number of commercial units within the site; it is proposed to replace some of the floor space associated with the site. Presently there is some 420sqm of commercial space split into differing uses, set within buildings which have established over a number of years. The proposal is to replace the existing with smaller space 340sqm yet more appropriate and versatile units. Although there will be a loss of space at the site and the garage will close along with the car sales, this is considered not to damage the settlements ability to meet its day to day needs or result in the total loss of such services to the community. There is a petrol station to the north and on the edge of Willand, further south an established car sales unit.

The other shops and facilities would be able to transfer into the proposed new units if they so wished, subject to agreement with the owner of the units.

Notwithstanding the indicative plans submitted it is considered and agreed with Willand Parish that the proposed units should be located to the front of the site, and that the units should be a mix of A1, A2, A3 and possibly A5, to provide for this part of Willand and the wider environs.

The proposal will ensure that the replacement commercial units are provided prior to demolition of the existing by way of a section 106 agreement, to ensure continuity of services at the site and for the village.

It is therefore considered that although there will be some loss of space on the whole the proposed is compliant with policy DM25 and DM21 of the Local Plan, in that there are adequate other facilities within and around Willand.

The emerging Local Plan defines Community facilities which provide for the wellbeing, social, educational, spiritual, recreational, leisure and cultural needs of the community. It is therefore considered that the loss of the petrol station and the car sales does not necessarily fall into the parameters of community facilities.

8. Section 106 including affordable housing, education and public open space air quality and other financial considerations

Policy AL/DE/3 of the AIDPD which requires open market housing sites in rural areas of more than 2

dwellings to provide affordable housing at 35% of the number of dwellings by which the site exceeds the 2 dwelling threshold (11 - 2 x 35%), rounded down to the nearest whole. For this application, there would be a need to provide 9 affordable dwellings on the site.

Public open space is intended to be provided on site. However if sufficient appropriate space is not to be included then Policy AL/IN/3 of the AIDPD and Mid Devon's SPD on open space seeks financial contributions towards play areas and open space facilities where no on site provision is made. Accordingly, the applicant has agreed to enter into a Section 106 Agreement to secure any additional financial contribution towards Refurbishment of Chestnut Drive Play Area, Willand'.

Policy AL/IN/5 of the AIDPD provides that where new housing development will lead to education facilities being over-subscribed, the development will cover the cost of the additional facilities necessary. Devon County Council has requested an education contribution towards additional education infrastructure for the Primary contribution the request is £102,390 (based on the current DfE extension rate of £13,652 per pupil for Devon). This contribution will be used to increase the primary education facilities within the area of the development.

There is currently capacity at the local secondary school; therefore a secondary contribution will not be required.

Policy AL/CU/15 Cullompton Air Quality Development in or adjoining Cullompton will be required to mitigate its likely impact on air quality in the Cullompton Air Quality management Area by contributing towards the cost of implementing the action plan. The proposed sum is 21 dwellings x £5218 = £109,578, to be allocated to a project associated with improvements to J28

9. Planning balance/Summary

Mid Devon has been found not to be able to demonstrate a 5 year housing land supply and Mid Devon's policies on housing supply should therefore not be considered up to date. 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 small contribution towards increasing housing supply in Mid Devon in addition, the site is screened from the north and highway safety, flood risk, archaeology and drainage concerns can be addressed via conditions, there will also be financial contributions towards education facilities and play area provision, as well as the provision of 9 affordable dwellings on site.

The site is also able to accommodate 30 dwellings with associated amenity space, vehicle parking, cycle parking and bin storage in a manner that would not significantly affect the living conditions of existing residents to an unacceptable degree. These are the benefits of the scheme to which weight can be given.

In terms of the adverse impacts of the proposal it is important to consider the loss of commercial units and in particular the petrol filling station and car sales from the site are not particularly welcomed and it would be preferable if they were retained. These facilities are used by the locals and it is considered their loss may have a short term impact on the community. In assessing this issue it is important to consider that the loss of these Community facilities may not damage the settlements ability to meet its day to day needs and reduce the available supply in the immediate area as there is a replacement retail/commercial unit proposed to relocate some of the existing businesses, or provide for new businesses. The approximate area loss is associated with the petrol station and car sales in the region of 80-100sqm. It should also be noted that to the north of Willand adjacent to Mid Devon Business Park is an existing petrol filling station which provides an adequate provision and to the south at Five bridges a car sales unit (Culm Valley Car Sales).

The site could also be considered to be outside the settlement limits and in a relatively isolated position away from the built form of the village on the north western flank of the B3181 (Silver Street), but it must be noted that the site is adjacent to a section of the settlement on the south eastern flank of the road which is within that settlement boundary. Whilst the site is located a distance away from the boundary of the settlement limits on the North eastern flank of the B3181 it is none the less within walking distance of the facilities within Willand with appropriate foot paths and a bus route along the main road.

Willand is considered to be a sustainable settlement in that its overall day to day facilities make it suitable for restricted housing growth that the existing Development Plan and emerging Local Plan Review consider appropriate for a limited level of development. Whilst Willand does have an education facility, and a few shops and facilities associated with the Village. Accessibility to a wider range of services within Willand is generally poor and there would be a high dependency on the usage of the private car, or the regular bus services which are available.

On balancing all these issues it is considered that the proposal would amount to sustainable development and therefore does not conflict with the sustainability objectives of the NPPF. This is a finely balanced judgement which has been reached on the basis that planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits. On this basis the proposal is considered to be in accordance with policies: COR1, COR9, COR12 and COR18 of the Mid Devon Core Strategy (LP1) and Local Plan Part 3 policy DM21 and DM25 and the sustainability objectives of the National Planning Policy Framework.

CONDITIONS

1. No development shall begin until detailed drawings to an appropriate scale of the layout, scale and appearance of the building(s), the means of access thereto and the landscaping of the site (hereinafter called the Reserved Matters) have been submitted to and approved in writing by the Local Planning Authority.
2. Application(s) for approval of all the Reserved Matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.
3. The development hereby permitted shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of approval of the last of the Reserved Matters which have been approved, whichever is the later.
4. The detailed drawings required to be submitted by Condition 1 shall include the following additional information: boundary treatments, existing and proposed site levels, finished floor levels and materials, external lighting, retaining walls, drainage an ecological management plan based on the recommendations for ecological mitigation and enhancement contained in the submitted Ecological Appraisal by Ecological Surveys Ltd., dated August 2016, materials.
5. The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice.
6. As part of the Reserved Matters submission/s referred to in condition 1, a Sustainable Urban Drainage Scheme and long term management and maintenance plan shall be submitted to the Local Planning Authority. The submitted details shall include a full drainage masterplan and associated drainage calculations also include a timetable for the implementation of the Sustainable Urban Drainage Scheme. The development shall be constructed and the Sustainable Urban Drainage Scheme provided, maintained and managed in accordance with the approved details submitted at Reserved Matters stage.

7. No development shall begin until a temporary surface water drainage management plan, to demonstrate how surface water runoff generated during the construction phase will be managed for the full construction period, has been submitted to and approved in writing by the Local Planning Authority. The plan must satisfactorily address both the rates and volumes, and quality, of the surface water runoff from the construction site and must also include details of how eroded sediment will be managed to prevent it from entering the permanent surface water drainage management system and include a timetable for the implementation of the management plan. Once approved the management plan shall be implemented in accordance with the approved details.

8. An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

(i) a survey of the extent, scale and nature of contamination;

(ii) an assessment of the potential risks to:

a) human health,

b) property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,

c) adjoining land,

d) groundwater and surface waters,

e) ecological systems,

f) archaeological sites and ancient monuments;

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

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

9. Prior to any development a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

10. The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority.

The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

11. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 1, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 2, which is subject to the approval in writing of the

Local Planning Authority.

12. No development shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Planning Authority.' The development shall be carried out at all times in strict accordance with the approved scheme.
13. No occupation of the development shall take place on site until the off-site highway works for the relocation of the eastbound bus stop into Willand Old Village, and provision of footway from the existing pedestrian crossing to the Westbound stop outside Digger Land have been designed, approved in writing and have been constructed and made available for use.
14. The proposed estate road, cycleways, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, road maintenance/vehicle overhang margins, embankments, visibility splays, accesses, car parking and street furniture shall be constructed and laid out in accordance with details to be approved by the Local Planning Authority in writing before their construction begins, For this purpose, plans and sections indicating, as appropriate, the design, layout, levels, gradients, materials and method of construction shall be submitted to the Local Planning Authority.
15. The development hereby approved shall not be carried out otherwise than in accordance with a phasing programme which shall previously have been submitted to and approved by the Local Planning Authority in writing.
16. No part of the development hereby approved shall be commenced until:
 - a) The access road has been laid out, kerbed, drained and constructed up to base course level for the first 20.00 metres back from its junction with the public highway
 - b) The ironwork has been set to base course level and the visibility splays required by this permission laid out
 - c) The footway on the public highway frontage required by this permission has been constructed up to base course level
 - d) A site compound and car park have been constructed to the written satisfaction of the Local Planning Authority.
17. The occupation of any dwelling in an agreed phase of the development shall not take place until the following works have been carried out to the written satisfaction of the Local Planning Authority:
 - a) The spine road and cul-de-sac carriageway including the vehicle turning head within that phase shall have been laid out, kerbed, drained and constructed up to and including base course level, the ironwork set to base course level and the sewers, manholes and service crossings completed;
 - b) The spine road and cul-de-sac footways and footpaths which provide that dwelling with direct pedestrian routes to an existing highway maintainable at public expense have been constructed up to and including base course level;
 - c) The cul-de-sac visibility splays have been laid out to their final level;
 - d) The street lighting for the spine road and cul-de-sac and footpaths has been erected and is operational;
 - e) The car parking and any other vehicular access facility required for the dwelling by this permission has/have been completed;
 - f) The verge and service margin and vehicle crossing on the road frontage of the dwelling have been completed with the highway boundary properly defined;
 - g) The street nameplates for the spine road and cul-de-sac have been provided and erected.
18. The proposed replacement commercial units within the application site including any building(s) thereon shall be used for A1, A2, A3 A4 and A5 and for no other purpose (including any purpose in Class C3 or B1 of the Schedule to The Town and Country Planning (Use Classes) Order 1987 (as amended)), or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification.

19. No development shall begin until there has been submitted to, and approved in writing by the Local Planning Authority, 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.
20. As part of the landscaping reserved matters, detailed drawings shall show which existing trees and hedgerows are to be retained on the site as part of the development.

REASONS FOR CONDITIONS

1. The application was submitted as an outline application in accordance with the provisions of Articles 4 & 5 of The Town and Country Planning (Development Management Procedure) Order 2010.
2. In accordance with the provisions of Section 92(2) of the Town and Country Planning Act 1990 as amended by Section 51 Planning and Compulsory Purchase Act 2004.
3. In accordance with the provisions of Section 92(2) of the Town and Country Planning Act 1990 as amended by Section 51 Planning and Compulsory Purchase Act 2004.
4. To enable the Local Planning Authority to consider [adapt to be specific to the application], in accordance with Policies DM2 and DM14 of Local Plan Part 3 (Development Management Policies).
5. For the avoidance of doubt and in the interests of proper planning.
6. To minimise flood risk and provide sustainable drainage on site in accordance with Policies COR11 of the Mid Devon Core Strategy (Local Plan Part 1) and DM2 of the Mid Devon Local Plan Part 3 (Development Management Policies) and in accordance with guidance contained within the DEFRA document 'Non-statutory technical standards for sustainable drainage systems'.
7. To ensure that surface water runoff from the construction site is appropriately managed so as to not increase the flood risk, or pose water quality issues, to the surrounding area.
8. To ensure the development is carried out without detriment to the health and amenity of the work force and subsequent occupants of the site.
9. To ensure the development is carried out without detriment to the health and amenity of the work force and subsequent occupants of the site.
10. To ensure the development is carried out without detriment to the health and amenity of the work force and subsequent occupants of the site.
11. To ensure the development is carried out without detriment to the health and amenity of the work force and subsequent occupants of the site.
12. To ensure, in accordance with Paragraph 141 of the National Planning Policy Framework (2012) and the supporting text in Paragraph 5.3 of the Mid Devon Local Plan Part 3: (Development Management Policies) Policy DM27 (2013) that an appropriate record is made of archaeological evidence that may be affected by the development.
13. To ensure that adequate information is available for the proper consideration of the detailed proposals.
14. To ensure the proper development of the site.

15. To ensure that adequate on site facilities are available for all traffic attracted to the site during the construction period, in the interest of the safety of all users of the adjoining public highway and to protect the amenities of the adjoining residents.
16. To ensure that adequate access and associated facilities are available for the traffic attracted to the site.
17. To ensure that adequate access and associated facilities are available for the traffic attracted to the site.
18. To ensure appropriate uses remain at the site to provide for the needs of Willand.
19. To ensure that the development makes a positive contribution to the character and amenity of the area in accordance with Policy DM2 of the Local Plan Part 3 (Development Management Policies).
20. In the interest of the visual amenity of the area in accordance with Policy DM2 of the Local Plan Part 3 (Development Management Policies).

REASON FOR APPROVAL OF PERMISSION/GRANT OF CONSENT

Mid Devon has been found not to be able to demonstrate a 5 year housing land supply and Mid Devon's policies on housing supply should therefore not be considered up to date. Paragraph 14 of the National Planning Policy Framework 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 National Planning Policy Framework as a whole or specific policies in the National Planning Policy Framework indicate development should be restricted.

The proposal would make a small contribution towards increasing housing supply in Mid Devon and weight must be given to this. In addition, the site is screened from the north and highway safety, flood risk, archaeology and drainage concerns can be addressed via conditions. This also weighs in favour of the approval of the application, as do the financial contributions towards education facilities and play area provision, as well as the provision of 9 affordable dwellings on site (> 1,000 square metre floorspace) or a financial contribution towards off-site affordable housing (<1,000 square metres floorspace). The site is able to accommodate 30 dwellings with associated amenity space, vehicle parking, cycle parking and bin storage in a manner that would not significantly affect the living conditions of existing residents to an unacceptable degree.

However, the loss of commercial units and in particular the petrol filling station and car sales from the site are not particularly welcomed and would be preferable for their retention. These facilities are well used by the local populace and it is considered their loss would impact on the community. The loss of these Community facilities will potentially damage the settlements ability to meet its day to day needs and reduce the available supply in the immediate area. However there is proposed a retail/commercial unit to relocate some of the existing businesses, or provide for new businesses. To the north of Willand is an existing petrol filling station which provides an adequate provision and to the south a car sales unit which has been long established.

Although considered to be outside the settlement limits of the village the site is adjacent to a section of the settlement which is within that settlement boundary. Although considered to be remote from the main centre of the village the site is actually contiguous with the settlement boundary of Willand. Willand is considered to be a sustainable settlement in that its overall day to day facilities make it suitable for restricted housing growth that the existing Development Plan and emerging Local Plan Review consider appropriate for a limited level of development. Whilst Willand does have an education facility, and a few shops and

facilities associated with the Village. Accessibility to a wider range of services within Willand is generally poor and there would be a high dependency on the usage of the private car, or the regular bus services which are available. The proposal would amount to sustainable development and therefore does not conflict with the sustainability objectives of the National Planning Policy Framework. The proposal is considered to be in accordance with Policies: COR1, COR9, COR12 and COR18 of the Mid Devon Core Strategy (Local Plan Part 1) and Local Plan Part 3 (Development Management Policies) Policy DM25 and the sustainability objectives of the National Planning Policy Framework.

Jonathan Guscott
Head of Planning and Regeneration