

PLANNING COMMITTEE AGENDA - 16th May 2018

Applications of a non-delegated nature

<u>Item No.</u>	Description
01.	<p>18/00214/MFUL - Erection of 14 dwellings with associated roads, garages and parking to include improvements to the existing footpath network at Land at NGR 310280 114261, Hunters Hill, Culmstock.</p> <p>RECOMMENDATION Grant permission subject to conditions and the signing of a S106 agreement</p>
02.	<p>18/00283/OUT - Outline for the erection of a dwelling and alterations to vehicular access at Jaspers Green, Uplowman, Tiverton.</p> <p>RECOMMENDATION Refuse permission.</p>
03.	<p>18/00002/TPO – 2 Quarry View Burlescombe Tiverton Tree Preservation Order for 1 Willow tree</p>

Application No. 18/00214/MFUL

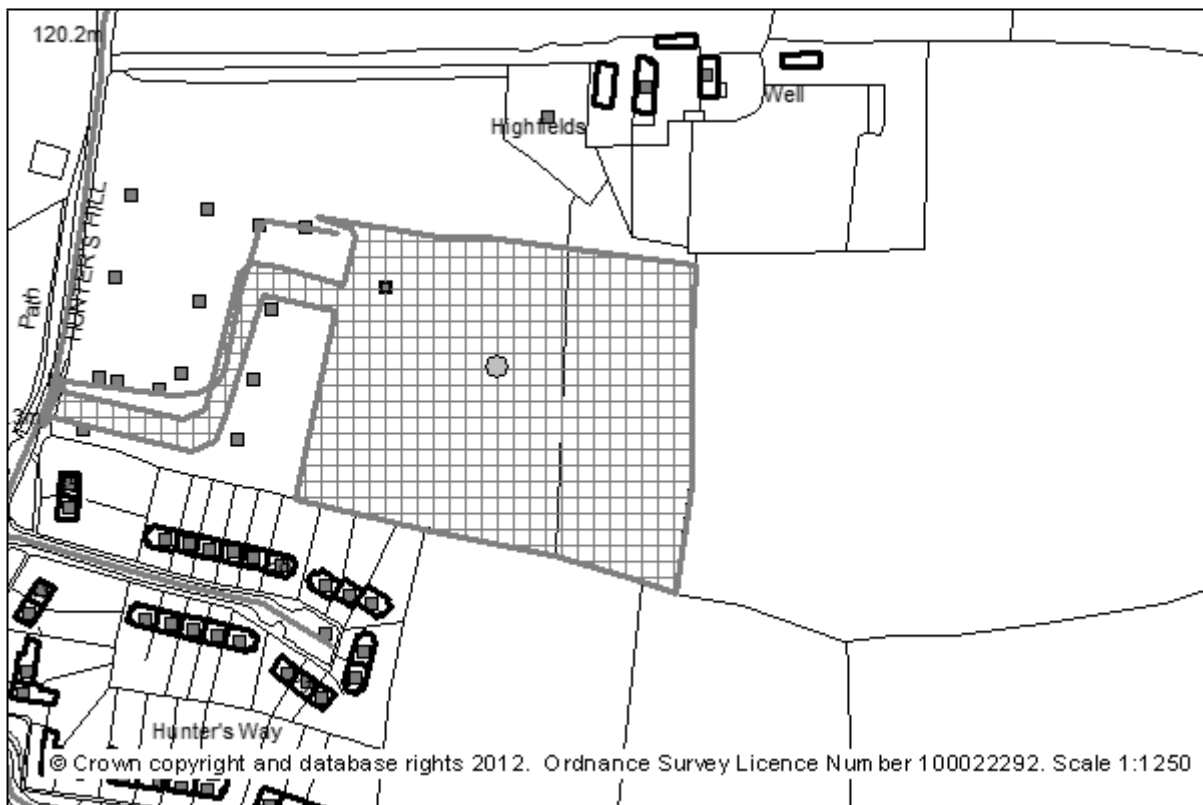
Grid Ref: 310280 : 114261

Applicant: Mr A Lehner

Location: Land at NGR 310280 114261
Hunters Hill
Culmstock
Devon

Proposal: Erection of 14 dwellings with associated roads, garages and parking

Date Valid: 20th February 2018



APPLICATION NO: 18/00214/MFUL

MEMBER CALL-IN

The planning committee requested at the 21st of March 2018 meeting that this major application be determined by the committee.

RECOMMENDATION

Grant permission subject to conditions and the signing of a S106 agreement in respect of:

1. Provision of 4 affordable dwellings (2 x 2 bed and 2 x 3 bed, to include 2 affordable rented properties and two discounted open market dwellings);
2. A financial contribution of £18,484 towards access to public open space at Colliers Meadow, Culmstock; and
3. A financial contribution of £106,778 towards primary, secondary and early years education and school transport costs.
4. The provision of footpath improvements between the site and the primary school.

PROPOSED DEVELOPMENT

This application seeks full planning permission for the erection of 14 dwellings (10 market, 4 affordable) on 1.33 hectares of agricultural land to the north east of Hunter's Way and to the East of the Phase 1 development which adjoins Hunter's Hill. The site is located on the northern edge of Culmstock. The site is broadly rectangular and is an open grassland field, classified as grade 3 agricultural land. The site has hedge boundaries to the southern and eastern sides of the site, and is bounded by the 'phase 1' development on the western boundary. There is no formal boundary to the north.

The proposal is to provide 4 x 3 bed market dwellings, 5 x 4 bed market dwellings, 1 x 5 bed market dwelling, 2 x 2 bed affordable dwellings, 2 x 3 bed affordable dwellings. Each property will be served by a garage, private garden and parking. The site will be accessed from an estate road joining the existing 'phase 1' development, and will be served by the existing junction onto Hunter's Hill.

It is intended that foul sewage will be disposed of using the existing mains system, via a new connection. The site will be served by a Sustainable Urban Drainage System to manage surface water in the form of permeable paving under parking areas and an attenuation basin.

APPLICANT'S SUPPORTING INFORMATION

Arboricultural Report
Design and Access Statement
Heads of Terms
Flood Risk Assessment

Landscape and Visual Impact Assessment
Preliminary Ecological Appraisal
Wildlife Trigger List
Junction Capacity Statement
PICARDY results
Plans

RELEVANT PLANNING HISTORY

02/00898/OUT - REFUSE date 5th July 2002

Outline for residential development and associated works including new access to the site

16/00693/MOUT - PERCON date 28th October 2016

Outline for the erection of 13 dwellings

16/01734/MARM - PERCON date 7th February 2017

Reserved Matters for the erection of 13 dwellings following Outline approval 16/00693/MOUT

INFORMATIVES

None

DEVELOPMENT PLAN POLICIES

Mid Devon Core Strategy (Local Plan 1)

COR1 – Sustainable Communities
COR2 – Local Distinctiveness
COR3 – Meeting Housing Needs
COR8 – Infrastructure Provision
COR9 – Access
COR11 – Flooding
COR17 – Villages
COR18 - Countryside

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

AL/DE/2 – Overall Affordable Housing Provision
AL/DE/3 – Affordable Housing Site Target
AL/DE/4 – Occupation of Affordable Housing
AL/DE/5 – Inclusive Design and Layout
AL/IN/3 – Public Open Space
AL/IN/5 – Education Provision

Mid Devon Local Plan Part 3 (Development Management Policies)

DM1 – Presumption in Favour of Sustainable Development
DM2 – High Quality Design
DM3 – Sustainable Design
DM4 – Waste Management
DM8 – Parking
DM14 – Design of Housing
DM15 – Dwelling Sizes
DM27 – Development Affecting Heritage Assets
DM29 – Protected Landscapes

CONSULTATIONS

Culmstock Parish Council - 17th April 2018

At the Culmstock Parish Council on Wednesday 11th April 2018, the Councillors unanimously agreed to object to the above planning application (fully endorsed by members of the public present) on the following grounds:-

1. In Summary:

1.1 Culmstock Parish Council objects in the strongest possible terms that this Application is not included in the MDDC Local Plan (2013 - 2023), nor was it mentioned in The MDDC Local Plan Review (2015). It was not even mentioned as a possible "contingency site" in the Five-year Housing Land Supply analysis by the MDDC Scrutiny Committee report as recently as Oct 9th 2017.

1.2 DCC Highways should have considered and commented on this proposal. The Council strongly objects that there is no evidence about the impact of extra traffic on safety, the environment and parking.

2. Relevance:

Most of the following points are reinforced by the specific constraints mentioned by Head of Planning & Regeneration on page 3 of her memo dated February 23rd 2018. She lists the constraints affecting the Site as "Hamlet/Open Countryside", "Class III Road", "Defined Settlement Culmstock", "SSSI Impact Zone". The Council requests that these constraints should be considered in full.

3. Local Government Planning Policy: Policy COR17, S13 & CL2

3.1 The Council wishes to know how this "major scale housing application" concurs with any sections of Mid Devon District Council's Local Plan (Policy COR 17), adopted October 2013 which states that "Development will be limited to proposals within their defined settlement limits".

3.2 This policy was repeated in the proposed submission of the Local Plan Review (Feb 2015) where "development in villages (including Culmstock) will be limited to proposals within their defined settlement limits". As far as the Parish Council is aware, there has been no further publication to contradict this Policy.

3.3 Neither the Housing Land Availability Summary 2017, nor the subsequent report by Head of Planning, Economy & Regeneration to the Scrutiny Committee on October 9th 2017, included any mention of this Phase 2 development on Hunters Hill. The Council objects that the proposed site has never been considered for allocation.

3.4 The current proposal does not accommodate these aspects of the published Local Plan, or of its 2015 Review. Both Phase 1 and the proposed Phase 2 development are outside the designated settlement area. The Parish Council objects that the newly proposed area for development is not part of the adopted Local Plan (nor the 2015 Local Plan Review) and is an unnecessary intrusion into virgin countryside.

3.5 The creation of Phase 1 of Hunters Hill did not conform to MDDC Policy S13. The Council cannot accept that the planning terms from the 2013 Local Plan can legally again be dismissed with the sudden application for Hunters Hill phase 2, which was never considered (or even remarked on) at any earlier planning stage including phase 1. The Council objects to development outside the clearly defined Culmstock Settlement limit.

3.6 The Local Plan Review dated Feb 2015 shows development options for Culmstock with 6 dwellings on 0.23 Ha at Linhay Close (CL1) and just 10 dwellings on 0.4 Ha on Hunters Hill (CL2). Phase 1 already exceeds that area (0.76ha). Measurement suggests that the site area of the new application for the proposed Phase 2 development is an additional 1.2 Ha to the 0.76 Ha already in development. Instead of the limited 10 homes provided in the Local Plan on Hunters Hill, it is now proposed to build 27 homes without any evident change of policy. The Council objects to the area of development exceeding fivefold that shown in the Local Plan.

3.7 Policy Guidance: Policy S13

As stated in the recent Central Government advisory notes (March 2018), the changing planning information passed down to local parishes has been inadequate. Indeed, the Council objects that insufficient information has been given to Parish Councils by MDDC about continuously changing local planning policies. As a result of MDDC's inability to decide on an active Local Plan, the Parish Council seeks reassurance that developers are not being offered "free for all" for development of "unplanned" sites such as Hunters Hill (Phase 2). The Parish Council objects that MDDC has lost control of its protection of Rural Village Sites.

3.8 Proposal: Instead of offering four affordable homes within the proposed "phase 2" Hunters Hill development, we consider that there is uncontested designated development land in the Local Plan for six more dwellings at Linhay Close (Policy CL/1). This is targeted in the 2015 Local Plan Review for development in 2017/2018. While also outside the legal Settlement Limit, this site was clearly shown in the Local Plan and has the advantage of much more acceptable access as well as a greatly preferred visual and environmental aspect. The Parish Council believes Linhay Close would make a much more sensible contribution to the community of Culmstock than the current proposal for Hunters Hill.

4. Highway safety & traffic levels: Policy S1(e), S8, DM3, & 2013 COR9

4.1 The Spatial Strategy section of the Local Plan Review (dated February 2015) emphasises that the distribution of housing in the smaller settlements (such as Culmstock) risks significant increases in unsustainable travel and that significant levels of traffic must be supported by a robust transport evidence base.

4.2 There is no Report from Highways in support of this Application, so the Parish Council require a properly made robust analysis of extra traffic flows, environmental implications, safety hazards and Pedestrian access to/from the development. We specifically ask what safety improvements are intended at School Corner, the safety of pedestrians, wheel-chairs and school children and from any increased traffic flow arising from the Application is of paramount importance.

4.3 The Council objects to the Design Statement which dismisses any traffic implications of 28 extra vehicles as to have "minimal impact on the local network". The incremental effect of so many cars using the narrow class 3 road must not be lightly dismissed since we calculate that Hunters Hill will have to absorb 80 extra vehicle journeys per day in each direction because of the proposed development. Already traffic flow at peak school drop-off time (around 8.30 am) reaches a vehicle every 20 seconds past the narrow school frontage. The extra householders up Hunters Hill will further exacerbate the dangers to pedestrians (especially schoolchildren) approaching this already dangerous junction.

4.4 The development itself is situated on a Class 3 road with access past the primary school down to School Corner where there is already insufficient space for parking and drop off/pick-ups. The Council requests that a clear traffic plan be included for the hazardous junction at School Corner, where there have been several incidents with damage to school traffic.

4.5 Local residents down Hunters Hill already have inadequate parking facilities and there is no pavement between the school and the proposed development, forcing parents with buggies (and wheel-chair users) to pass around parked cars into the road. The additional extra cars commuting from "phase 2" passing the school and using an already dangerous junction at peak times are of particular concern. Agricultural and business traffic (tractors, milk lorries etc) are already finding it hard to negotiate the road which is already running at capacity at peak times, especially during the Harvest season. The Council objects that no consideration has been given to the Highways aspects of the Application.

5. Flood Risk: Policy DM1(f), & 2013 COR11

5.1 Surface water: The Council agrees with the concerns about flood water expressed by the DCC Lead Local Flood Authority response dated March 13th. We share their concern that the surface water run-off will be increased by the current proposals. The proposed development would increase the impermeable surface of the field by another 3,500 m² which can hardly be expected to be resolved by the run-off rate of just 2 l/sec in a heavy storm. The council agrees with DCC that the surface water should be managed at source in the first instance and that the other SuDS water management should be implemented.

5.2 The attenuation basin is clearly in an uphill location from the path of most of the run-off, so the Parish Council sees this as a cosmetic feature, while agreeing with DCC that it is inappropriate to manage all the surface water at one concentrated point which inevitably would overflow under storm conditions. Further the Council does not believe that the existing ditch can carry the extra floodwater overflow from the site and the attenuation basin in extreme situations such as experienced in 2012 when the ditch was already recorded as flooding into Hunters Way prior to any development of the site.

5.3 The Council foresees significant flood-water problems arising from the proposed development which have not so far been addressed by the Application and therefore object to the Flood Risk aspects of the Application.

6. Sewers: Policy DM1(f), & 2013 COR11

6.1 The DCC Response insists that that the condition, capacity and ownership of the piped water course down Hunters Hill should be clarified. Even more importantly the Council emphasise the need to check the capacity and integrity of the sewer down Hunters Hill which should be checked without delay.

6.2 The diagram of sewer records attached to the Application is clearly incomplete since it does not show any record of the sewer work undertaken for the recent Phase 1 development on Hunters Hill. Further the Council objects that the proposal does not show the planned route for the sewage effluent from the new 14 dwellings, a matter which should be clearly shown in a Full Planning Application.

6.3 The Council requires confirmation from South West Water that there is "sufficient capacity available in the existing sewer network in Culmstock to accommodate the additional water flow from the proposed 14 dwellings" (Foul Water Strategy item 7 p.11) in addition to extra flows arising from the 13 dwellings in Hunters Hill phase 1. The Council has long been aware of the inadequacy of the sewer capacity provided to the north of the river. The Council objects that the Application simply states a presumption that "the village is served by a public foul sewerage system which will be extended into the development site".

6.4 Evidence (already reported to SWW in 2018) has shown that the sewage processing facilities are unable to cope even with existing demand during times of high rainfall/snow melt. Raw sewage was observed with outflow into the river after the recent March snow. Drain covers near to the river were recently seen to be backing up even after the minimal recent snow, with evidence of raw sewage matter visible around drain covers. The Council is concerned that the proposed housing should not exacerbate the problems of 2012 when several low-lying dwellings including the pub were affected by sewer backup. The full sewage impact of the first 13 Phase 1 houses has not yet been realised as only 5 of the 13 houses are currently occupied. The Council therefore objects to the inadequate investigation of the sewerage consideration of the Application.

7. Impact on the appearance of the area: Policy S1(k) S14, DM29, & CL2

7.1 Policy DM29 - Protected Landscapes states that "developments should not in any way undermine the special qualities that led to the designation of the nearby landscape as an AONB". Culmstock is the Gateway to the Blackdown Hills AONB (who have not yet apparently provided a report about this application). They will surely have an opinion about the detrimental effect of the further development at Hunters Hill even though their boundary is a little to the north of the proposed development. The extension of the site increases its visibility from the adjoining SSSI site of Blackdown Common to the north as well as being prominent from Hackpen Hill to the South.

7.2 The Council refers to the long-distance photographs which were included in the phase 1 Application which suggested that the impact of the phase 1 development was "minimal". The photographs now included in the phase 2 Application show that this previous claim was incorrect as it clearly shows how prominent the phase 1 housing already is from Beacon Hill despite previous claims of invisibility.

7.3 We already have complaints from residents and visitors that the Phase 1 houses stand out within the aspects of Culmstock village when viewed from the Blackdown Common SSSI to the north as well as from the south below Hackpen Hill. The Council denies that the new additional housing will enhance the character of the village given the evidence from phase 1 and so object to the proposed location.

8. Design, appearance, layout and materials: Policy S1(h) & S13

While finding the design of the development might be acceptable in a suburban setting, the Council cannot accept the premise that the proposal includes traditional design "reflecting the character of the village and the local area". Culmstock is a charming village comprising mediaeval buildings, a stock of ancient housing as well as substantial brick buildings from the mill and railway era; it is impossible to see that the proposed designs of the proposed buildings with uniform rectilinear suburban character will fulfil the Local Plan Review Guidelines under Section DM1, which states that designs make a positive contribution to local character well integrated with surrounding buildings, streets and landscapes. The Council objects to the general suburban design of the proposed houses, especially the inclusion of a mixture of clay roman tiles while the housing stock of the village is substantially black slate or thatched.

9. Conservation of buildings, trees and open land: Policy S1(m), S9, S14 & DM1(c)

The Council enquires how the old single oak tree (T01) possibly in the path of the proposed service road is to be preserved (especially if it is covered by a TPO). The Environmental report shows that this tree is an important habitat for Bat roosting, but the Council insists that this iconic tree is to be retained as part of the local landscape.

10. Need to conserve the countryside or protected species of plant and animal: Policy S1(m) & S9

The archaeological analysis of this proposal is obviously inadequate by the developer's presumption from results from phase 1. The Local Plan correctly states that "the site lies in an area of archaeological potential with regards to known prehistoric activity as well as evidence of the iron industry that operated in the Roman and later periods". Any planning application for development here will need to be supported by the results of an appropriate level of archaeological investigation on site. The Council requires clarification to allow the significance of any below-ground heritage asset to be understood.

11. Social Issues: Policy S14(e)

11.1 The Primary school is already exceeding its capacity of pupil numbers and more funds suggested by DCC would not create enough space to expand, even with the inclusion of the small existing library as a classroom. Which can only be of detriment to the learning environment. As shown by the DCC Education response the school is already over-allocated, with inadequate classroom facilities, before adding the intake from the Hunters Hill developments. The pupil numbers have risen by 40% since the turn of the 21st Century and the seven year groups are currently managed within four classrooms. The Parish Council considers that it would be sensible to consider replacing the temporary Portacabins with a purpose built 2-storey L-shaped classroom block without reducing the playground area.

11.2 As with the application for phase 1, the council believes that the allocation of one primary school child per four dwellings is a serious underestimate of the likely demand for school places from the proposed development. As described under Highways section 3 above, parking is also a major concern at school times. The Council objects to the additional pressure likely to be placed on the stretched resources of the Primary School to accommodate the extra pupils from the proposed development.

11.3 It must be noted that GP surgeries and dentists in the area are also at capacity both in Hemyock and Wellington.

12. Affordable Housing: Policy S3, CL2

12.1 Of the originally allocated four affordable homes in phase 1, it is understood from the developer that two have been sold as Discount Market Housing with the occupant being assessed via Devon Council and the other two are being purchased by MDDC Housing association and are to be let as Council Houses. From the Design Statement for phase 2 (as well as the Heads of Terms - Planning Obligations) it appears that the developer is providing "Discounted Open Market Housing" rather than as closely defined "affordable housing" as per the NPPF Framework (annex 2).

12.2 One of the aspects of the Review of the NPPF currently being undertaken in the House of Commons is to ensure that the benefits of Discounted Market Housing exist in perpetuity for the benefit of local qualified applicants with a direct Culmstock connection. The Council requests assurance that the four affordable homes in phase 2 would be available in perpetuity for local parishioners under the normal rules for allocation of Affordable Housing.

In the event that the Application is accepted, the Parish Council would require:

13. The Application makes no reference to pedestrian safety. If the current development is approved, the Parish Council insists that it will be necessary to create a permanent pavement (without steps) of a legal 2 metre width down Hunters Hill to accommodate a safe way for families with pushchairs, as well as for inhabitants with wheel-chairs, to access the village.

14. There would be other S106 requirements for the development of Open Spaces to accommodate the needs of the extra 40 to 50 residents.

15. Routine maintenance:

The recently laid roadside hedge and ditch alongside the phase 1 development is already becoming over-grown, requiring the MDDC Verge maintenance team to include this stretch up to Highfields entrance in their routine verge maintenance. The current Application should also include a plan for routine clearance of the ditch and hedge on the lower side of the developments parallel to Hunters Way.

16. Noise, disturbance and smells resulting from the proposed development:

The contractors on Phase 1 have been observed to be burning wood and plastic waste on site, which is disallowed and so should be prevented within the proposed site.

Further development:

In the event that Phase 2 development of Hunters Hill should proceed, the Parish Council demands reassurance that no further development will be considered in either Great Meadow or the adjoining field called "South East Field". The Council further examined the ground plan offered for Phase 2, finding that the eastern end of the service road could be inferred to have some future junction with a possible further phase 3 development. The Council therefore asks what species of permanent protected trees are planned to be planted between plot 10 & 11 and what safeguards ensure that further development will not be considered (SHLAA 2013 p.87).

18. Conclusion:

The Parish Council objects to the proposed Phase 2 development on Hunters Hill for all the material reasons above.

Highway Authority - 24th April 2018

Additional information has been submitted on request in relation to the capacity of the junction of Hunters hill and B3391. The result of which indicates that there is sufficient spare capacity to accommodate the proposed residential proposal. The Highway Authority have no objections subject to conditions. The Highway Authority welcome improvements to the existing footways, including the provision of new ramped footways, details of which should be submitted for approval prior to commencement on site and their provision through section 278 of the Highways Act.

Housing and Enabling Manager – 28th February 2018

Confirms there is a housing need in Culmstock for 2 and 3 bedroom properties.

Devon County Council Education – 13th March 2018

An education contribution is requested to mitigate the impact of the proposal, particularly as there is currently no capacity at the nearest primary school and secondary school for the number of pupils likely to be generated by the development. The proposed 14 family-type dwellings will generate an additional 3.5 primary pupils and 2.1 secondary pupils.

The contribution sought towards primary is £47,782 (based on the DfE extension rate of £13,652 per pupil) and the contribution sought for secondary is £46,034 (based on the DfE extension rate of £21,921 per pupil) which will be used to provide education facilities for those living in the development.

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

3 secondary pupils

£3.32 per day x 3 pupils x 190 academic days x 5 years = £9,462.00

In addition, a contribution towards Early Years provision is needed to ensure delivery of provision for 2, 3 and 4 year olds. This would cost approximately £3500 (based on £250 per dwelling). This will be used to provide early years provision for pupils likely to be generated by the proposed development.

Historic Environment Team - 12th March 2018

Assessment of the Historic Environment Record (HER) and the details submitted by the applicant do not suggest that the scale and situation of this development will have any impact upon any known heritage assets.

Devon, Cornwall and Dorset Police – 28th February 2018

Approves of many facets of the design and the overall aim to provide a safe and secure development. Advises that doors and windows are manufactured by approved Secured By Design member-companies. The general layout will provide overlooking and active frontages to the new internal streets and public open space.

If hedgerow is likely to comprise new rear garden boundaries, then it must be fit for purpose, of sufficient height and depth to provide both a consistent and effective defensive boundary as soon as residents move in. Temporary fencing may be required until such planting has matured. Any hedge must be of a type which does not undergo radical seasonal change which would affect its security function.

Environmental Health - 8th March 2018

No objections or comments other than in relation to noise and other nuisances, a condition requiring a Construction Environmental Management Plan (CEMP) is recommended.

Devon County Council Lead Local Flood Authority – 2nd May 2018

Following the submission of additional information the LLFA has no in-principle objections, subject to pre-commencement conditions requiring the submission of a final scheme following on site testing, along with details of the surface water management during the construction phase.

Natural England – 7th March 2018

No objections. Advise consultations with the AONB Partnership. A landscape character assessment would be helpful to describe the landscape's sensitivity to this type of development.

Blackdown Hills AONB Partnership – 26th April 2018

The elevated location in close proximity to the AONB means that landscape matters and effect on the AONB are pertinent. Although recognising that any Landscape and Visual Impact Assessment should be proportionate to the scale of development, it would have been helpful for the photographs to be based on good practice, with images presented being of a scale and resolution to provide an accurate representation to allow proper assessment of impact (Landscape Institute Advice Note 01/11).

The 'phase 1' development serves to demonstrate that this is a sensitive location in terms of village character and landscape/visual impact, and that materials are crucial. Historically, Culmstock has developed in the valley bottom, along the river, and continued development up Hunters Hill will affect the inherent settlement character of this gateway to the AONB. The new

development becomes all the more evident due to the use of red clay roof tiles, which is both more obviously evident in the landscape and not typical of the rest of the village. If the planning authority is minded to approve this application, the detail of the dwelling design will be a key factor in whether the development befits its rural location in the setting of the AONB, including consideration of materials, colour and lighting.

South West Water - 23rd April 2018

South West Water assessed the capacity of the public sewer network and sewage treatment works to accommodate the initial and subsequent phase of development subject of the above application which determined that capacity is available.

REPRESENTATIONS

Eleven letters of objection have been received in conjunction with this application, they are summarised as follows:

1. Proposal is not detailed in the local plan. The site is outside the defined settlement boundary and is therefore in the open countryside. The site is not allocated like the adjoining site for 13 houses.
2. The principle of development is unacceptable and the proposal is contrary to the development plan, there are no significant or demonstrable benefits to outweigh this policy conflict.
3. The highway network is not capable of accommodating an increase in traffic. Increase in traffic on Hunters Hill, particularly at peak times, impacting on the lower Hunters Way junction and the junction by the Primary School.
4. Hunters Hill is in effect a single track lane due to on road parking by residents and school teaching/support staff and parents during pick up/drop off times. Congestion can be significant; along with large agricultural vehicles the road can become quite dangerous.
5. Request to reduce the speed limit to 20mph and parking restrictions for teaching staff to encourage parking at the village hall, along with possible road widening/layby creation.
6. There is a significant road safety issue due to the proximity of the school to road junctions. Turning in to Hunters Hill is on a blind bend, near misses are common place.
7. The full effect of the adjacent 12 houses is yet to be seen or assessed as this application has been submitted before the adjacent site is completed.
8. There is no pavement without steps between the school and the new houses, so that wheelchair users of people with a pushchair have to use the road currently. This is especially hazardous at busy times due to parked cars and agricultural machinery using the road. Parking bays and a pavement could help alleviate this.
9. Concerns over sewer capacity and storm water drainage after recent instances of flooding.
10. New development would be better positioned on the other side of the village away from this pinch point of traffic and parking issues.
11. Further information is required in terms of surface water drainage.
12. Do not accept the calculation for the number of school children generated by the housing as they are family sized homes.
13. Concerns the proposal will have a detrimental impact on local wildlife.
14. Concern about the visual impact of the proposal due to the sloping nature of the land.
15. Culmstock primary school is over subscribed already with very little room for expansion; it will not be able to support any further housing in the area.
16. The development will not provide the mix of housing needed in this rural area, there is insufficient affordable housing for younger people wanting to stay in the locality.

17. There is little employment in the village so people would be required to travel on the busy narrow lanes.
18. Blackdown Practice (medical centre) is struggling to cope with existing numbers; further building will put more pressure on the doctor's surgery.

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The main issues in the determination of this application are:

- 1. Principle of development, including 5 year land supply**
- 2. Impact on the character and appearance of the countryside, including the Blackdown Hills Area of Outstanding Natural Beauty**
- 3. Access and highway safety**
- 4. Ecology impacts**
- 5. Surface Water Drainage and Foul Sewage**
- 6. S106 and other financial considerations**
- 7. Planning balance**

1. Principle of development, including 5 year land supply

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. Policy COR18 seeks to control development outside defined settlement limits to appropriate rural uses, excluding new market housing.

The development is on agricultural land outside of the Culmstock defined settlement boundary. The site is not allocated and is not being proposed for 100% affordable housing. The proposal is therefore considered to be contrary to policies COR17 and COR18 of Mid Devon's adopted development plan.

Policy COR1 of the Mid Devon Core Strategy (LP1) seeks to manage growth in a sustainable way to support the diverse needs of communities, including the provision of affordable housing and making the most efficient use of land. Policy COR3 seeks to meet the diverse housing needs of the community, including a target provision of approximately 100 affordable dwellings per year across the District.

However, Members will also 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.

Culmstock has good level of local services and facilities, including: a pre-school and primary school, village shop, pub, village hall, Methodist Church, All Saints Church, and Culmstock garage. There is a regular 6 day a week bus service between Honiton and Taunton, along with a weekly service to Tiverton. Culmstock is considered to be a village that is in a relatively sustainable location for the development of additional housing. This is further recognised in the proposed and emerging local plan, whereby a small number of houses have been allocated on sites in Culmstock.

In a recent appeal relating to 60 dwellings in Uffculme, the Inspector found that in order to be a sustainable location for housing, it would be unrealistic to expect a village to achieve self-containment. Furthermore, the Inspector in the same appeal found the ability to use sustainable modes to access additional, leisure and shopping opportunities as well as to commute for employment purposes to be satisfactory. There are some very limited employment opportunities within the village centre, but as it has been described above, there is a bus service providing sustainable transport links to nearby areas with services and further employment opportunities.

As mentioned above, paragraph 14 of the NPPF requires 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. The paragraphs below assess the potential harm, along with the benefits of the proposed development.

2. Impact on the character and appearance of the countryside, including the Blackdown Hills Area of Outstanding Natural Beauty

The Blackdown Hills AONB lies approximately 170 metres to the north of the site. Whilst the site itself is not within the AONB, development in this location has the potential to adversely affect its setting. A landscape and visual impact assessment has been submitted as part of the application and has since been updated to show the impact of the existing development. The level of detail provided in this assessment is in accordance with what was previously provided for the ‘phase 1’ development, the applicant has not submitted a full landscape and visual impact assessment but has provided a series of photographs of the site from various points within the landscape.

Policy COR2 of the Mid Devon Core Strategy (LP1) requires development to preserve and enhance the distinctive qualities of Mid Devon’s landscape and to protect the setting of the Blackdown Hills AONB. Policy DM2 of the Local Plan Part 3 Development Management Policies requires development to demonstrate a clear understanding of the characteristics of the site, its wider context and surrounding area and make a positive contribution to local character. Policy DM29 of the Local Plan Part 3 Development Management Policies requires development proposal affecting the AONB or its setting to conserve the special landscape qualities of the AONB and biodiversity in the area. It states that major developments adjoining the AONB will only be permitted in exceptional cases.

The site slopes from north east to south west at an average gradient of 1 in 13 and a levels difference across the site of 9 metres (120m - 129m AOD) as demonstrated by a topographical survey. The lowest point in the site is in the south west corner. The site layout has been designed to limit any visual impact, by providing 4 bungalows along the northern site boundary and across

the highest part of the site. In addition, existing hedgerows and tree features are to be retained, this will help to integrate the development within its rural surroundings. Further landscaping details will be required by condition.

The site lies within the landscape character area: LCT3A "Upper farmed and wooded valley slopes character area". The upper farmed and wooded valley slopes character area is characterised by convex hills and rounded ridges with fertile smooth slopes running into small-scale views. Extensive tracts of medium-scale permanent pasture are grazed with some slopes and flatter hilltops cultivated for arable crops. Well-managed dense hedgerows bound regular medium to large pasture fields. Isolated farms, rural cottages and farm buildings tend to be visually prominent in the landscape with long views from one hilltop to another. The site is within this character area but there are few long views in or out of the site.

The submitted document identifies remote viewpoints on higher land in the wider area from which it is possible to locate the site area but the extent of the site is only apparent with visual aids and the site cannot be clearly identified in photographs without the use of a telephoto lens. What is clear from the photographs is that the site will be viewed within the context of the existing built form of the village and this to an extent reduces the sites visual impact within its wider surroundings. With the use of the telephoto lens, it is clear that 'phase 1' is visible from Culmstock Beacon. However, this zoomed in photograph also demonstrates that the application site will be screened to a greater extent than 'phase 1' due to the presence of offsite mature tree and hedge screening, including evergreen conifers. In addition, following comments from the Blackdown Hills AONB partnership, the roofing materials have been altered, removing all red clay roof tiles, to ensure that the materials are appropriate and to integrate the development within the landscape. As such, your officers consider that the proposed development will have a lesser impact than the already approved 'phase 1' development and that there will be limited opportunities to view the site from Culmstock Beacon, due to the existing screening, the landscape buffer proposed on site between the two developments, along with the distance of the site from the Beacon.

Your officers therefore consider the additional visual effects on the landscape of the 'phase 2' development of 14 dwellings over and above those of the 'phase 1' development, are considered to be minimal and acceptable in policy terms. It is recognised that 'phase 1' is visible from Culmstock Beacon, as demonstrated to an greater extent when using the telephoto lens, however, the natural weathering of the build materials overtime will integrate the development with the village to a greater extent.

Your officers consider that the development is capable of being introduced into the landscape without undue harm to the character of the landscape and the setting of the AONB, bearing in mind the low visibility of the site within the landscape and the benefits of the provision of market and affordable dwellings. The development is considered to comply with policies COR2 of the Mid Devon Core Strategy (LP1) and DM2 and DM29 of the Local Plan 3 Development Management Policies in this respect.

3. Access, parking and highway safety

Policy COR9 of the Mid Devon Core Strategy (LP1) seeks development in accessible locations to reduce the need to travel by car and which has an acceptable impact on road safety through management of car parking and traffic. Policy DM2 of the Local Plan 3 Development Management Policies seeks the creation of safe and accessible places that encourage sustainable modes of travel such as walking and cycling. Furthermore, Policy DM8 requires the provision of 1.7 parking spaces per dwelling.

The application site will utilise the existing road junction with Hunter's Hill, with a new estate road leading to the application site from the existing development with turning heads and shared

surface driveways. The access road up to and including the turning head will be adopted and therefore the road and footways will be surfaced with tarmac. The two shared surface private driveways leading from the main estate road and the parking areas will be surfaced with a different material, which is to be agreed by condition.

All dwellings, save for two bungalows are proposed to have two parking spaces, two bungalows will have 1 parking space each. The overall level of parking provided is 1.85 spaces per dwelling; this exceeds the level of parking required by DM8 and is therefore acceptable.

The Highway Authority do not object to this application subject to the recommended conditions and are satisfied that there is adequate capacity at the road junction between Hunter's Hill and the B3391 to accommodate the proposed residential development.

The parish and a number of objectors have raised concerns about the inadequacy of the pedestrian links between the site and the village centre, in particular, the school. Whilst there is an existing footpath, in its current form it has a number of steps and is very narrow in places, which means it cannot be used by wheelchair users or persons with a pushchair. As a result of these concerns, the applicant has engaged with the Local Planning Authority and DCC Highways and offered footpath improvements as part of the development proposal. It is proposed to provide new ramped footways, with details to be agreed through S278 of the Highways Act and through appropriate conditions on any planning approval and in the S106 agreement.

Objectors have also raised concerns about the inadequacy of the current parking arrangements in the village, whilst improvements to parking have been discussed, due to the scale of the development it is not considered viable to make improvements to the footpath as well as the parking arrangements. The footpath alterations have been prioritised and offered as part of the development, as this work will improve the safe and sustainable links to the village and encourage future occupants of the site to walk their children to school.

Subject to the recommended conditions, the vehicular and pedestrian access to serve the proposed development is considered to be acceptable and in accordance with policies COR9, DM2 and DM8. The pedestrian footway improvements to make the existing path wheelchair and pushchair friendly are considered to be a significant benefit of the scheme. The proposal will create a footpath suitable for all users that future occupants of the proposed site, along with existing residents, will be able to use to access the village centre and school safely.

4. Design

The site layout provides for a low density development (10.5 dwellings per hectare), the site is particularly low density due to the large landscape buffer area between the proposed development and 'phase 1', which will provide a visual break in the built form of the development and will have added benefits of providing an informal public open space area and attenuation basin to manage the surface water associated with the development.

There is a good separation distance between the proposed dwellings and neighbouring properties and there will be no side windows on plot 4. As such, the proposal is not considered to cause any increased overlooking to existing dwellings within 'phase 1' or Hunters Way.

The design of the dwellings is very similar to those in 'phase 1'. There will be a combination of detached and semi-detached properties, to include bungalows and two storey dwellings from two bedroom properties to five bedroom properties. The proposed materials comprise of the following: natural slate and brown double roman roof tiles; the walls will comprise of face brick work and

natural stone; the properties will have window heads and cills, details of windows and doors have not been provided and will be conditioned. The affordable dwellings will be constructed of materials to match the market dwellings and are also provided with garages; in this respect it is considered that they have been designed to be indistinguishable. The grouping of the four affordable dwellings is considered to be reasonable due to the small numbers and they are provided with a pleasant outlook over the landscape buffer. In this respect the proposal meets with AL/DE/5.

All of the properties meet or exceed the National Space Standards in terms of their overall size and floor space provided. Although there are a number of larger 4 and 5 bed properties, overall the mix of properties and their sizes is considered acceptable for this edge of village location. Each property has a reasonably sized private garden. Boundary treatments are to be a mix of brick walls and close boarded fences. Bin storage can be accommodated within each private garden in accordance with policy DM14 and the SPD on refuse storage.

Overall, the proposed housing is considered to comply with policy DM2 in respect of demonstrating high quality design that provides visually attractive places and makes a positive contribution to local character, policy DM14 which sets out criteria for the design of new housing and policy DM15 which sets dwelling sizes (dwelling sizes in DM15 now replaced by National Space Standards).

5. Ecology impacts

A preliminary ecological appraisal has been undertaken in conjunction with this application. The ecological appraisal found that the single mature oak tree and the species rich hedgerow (including a further mature oak) on the eastern and southern boundaries provided the greatest ecological value, with the two mature oaks having a moderate to high potential to support roosting bats. The development proposals include the retention of these features.

The assessment identified that the hedge bank habitat is suitable for dormice, foraging bats and hedgehogs, nesting birds and commuting and dispersing reptiles. In addition, the ditch habitat has the potential to be used by otters and the site is likely to be used by foraging badgers, although there was no evidence of this species. Due to the retention of the key tree and hedge bank features, no further survey work is considered necessary. However, a number of mitigation measure and ecological enhancement features are recommended, including a bat sensitive lighting plan, badger sett survey, additional native planting and bird/bat boxes, these measures will be required by condition.

Subject to the recommended mitigation measures and ecological enhancements, the proposed development is considered to be acceptable, without having a detrimental impact on the ecological interests of the site, with further opportunities identified to enhance ecology, in accordance with DM2.

6. Surface Water Drainage and Foul Sewage

Policy COR11 of the Mid Devon Core Strategy (LP1) seeks to direct development to areas with the least potential to flood. The site is located within Flood Zone 1 and is suitably located for residential development from this perspective. Policy DM2 of the Local Plan 3 Development Management Policies seeks the use of a sustainable urban drainage system (SUDS), if appropriate, to deal with surface water drainage.

Objections have been made in relation to surface water drainage and flood risk for nearby properties, along with concerns about the capacity of the sewage network. South West Water have confirmed that there is adequate capacity within the sewage network for the proposed residential development and raise no concerns in this respect.

Surface water on site will be managed using sustainable techniques. The drainage system proposed incorporates permeable paving for all parking areas and private driveways. In addition, it is proposed to have an on site infiltration basin in the south west corner of the site. The basin is proposed to have a high level outflow to an existing ditch that runs along the southern site boundary, to protect nearby properties in the unlikely event of a basin failure. The outflow would be restricted to 2l/s which would result in a significant reduction on the existing greenfield runoff rate.

In principle, subject to the conditions imposed to include infiltration testing and the submission of a final drainage design as recommended by the Lead Local Flood Authority, the drainage proposals are considered to be in accordance with policies COR11 of the Mid Devon Core Strategy (LP1) and DM2 of the Local Plan 3 Development Management Policies in respect of flood risk and sustainable drainage principles.

7. Heritage

Archaeological investigations including trial trenching took place on the 'phase 1' site. The Historic Environment Team are satisfied that the scale and location of the development will not impact on any known heritage assets and therefore there are no objections to the development in this respect.

The site is located to the north of the Culmstock Conservation Area. There is little inter-visibility between the site and the Conservation Area and views of the site from the conservation area would be seen in the context of the existing housing development at Hunter's Close. Your officers do not consider that the development would have a negative impact on the Conservation Area. In addition, the development is not considered to harm the settings of any listed buildings in the area.

The development is considered to accord with the provisions of policy DM27 of the Local Plan 3 Development Management Policies in respect of impacts on heritage assets.

8. S106 and other financial consideration

Policy AL/DE/3 sets a target of 35% affordable housing to be provided on sites of market housing, it is proposed to provide 4 affordable houses as part of this scheme, this is in accordance with the policy which permits rounding down to the nearest whole number.

Policy AL/IN/3 requires 60 square metres of equipped and landscaped public open space per dwelling or a financial contribution towards off site provision of play areas and open space facilities where no on site provision is made. The size and scale of development is such that it would not be expected that the development would provide formal open space, although the landscape buffer proposed will provide some informal green space, this isn't sufficient to provide for the demand for public open space facilities that the development will bring about. Accordingly, the applicant will enter into a S106 agreement to pay a financial contribution of £18,484 towards access to public open space at Colliers Meadow, Culmstock.

The capacity of existing facilities, in particular the school has been raised as a concern in a number of objections. Policy AL/IN/5 provides for new development to cover the cost of additional education provision required to meet the needs of the development. In order to mitigate the impacts of the proposal on the existing school facilities, an education contribution will be sought

totalling £106,778. The breakdown of this is £47,782 towards the primary school, £46,034 towards the secondary school, £9,462 towards secondary school transport and £350 towards early years education.

The applicant has agreed to make these financial contributions through a Section 106 Agreement.

9. Planning balance

The NPPF contains a presumption in favour of sustainable development and requires local authorities to boost significantly the supply of housing. The development would provide ten open market dwellings and four affordable dwellings which would provide economic and social benefits for Culmstock.

The NPPF requires that where Local Plan policies are considered to be out of date (see above), 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.

The potential harm of the development has been considered in this report, in particular, the impact of the proposal on the special qualities of the AONB and it is considered that, subject to conditions and the provisions of the Section 106 Agreement, any harm could be mitigated to an acceptable degree.

Weighing in favour of the development is the provision of ten market dwellings and four affordable dwellings, which the NPPF states should carry significant weight. In addition, the provision of improvements to the existing footpath network is considered to be a significant benefit to the local community. Creating a footpath that is accessible to all users, linking the site and this part of the village with the primary school, also weighs in favour of the proposal.

Taking all the above into account, your Officers consider that it cannot be demonstrated that the adverse impacts of approving the development would significantly and demonstrably outweigh the benefits, when assessed against the NPPF as a whole, and therefore approval is recommended in accordance with paragraph 14 of the NPPF.

CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice.
3. No part of the development hereby permitted shall be commenced until a programme of percolation tests has been carried out in accordance with BRE Digest 365 Soakaway Design (2016), and the results approved in writing by the Local Planning Authority, in consultation with Devon County Council as the Lead Local Flood Authority. A representative number of tests should be conducted to provide adequate coverage of the site, with particular focus placed on the locations and depths of the proposed infiltration devices.
4. No part of the development hereby permitted shall be commenced until the detailed design of the proposed permanent surface water drainage management system has been

submitted to, and approved in writing by, the Local Planning Authority, in consultation with Devon County Council as the Lead Local Flood Authority. The design of this permanent surface water drainage management system will be informed by the programme of approved BRE Digest 365 Soakaway Design (2016) percolation tests and in accordance with the principles set out in the approved Flood Risk Assessment and Drainage Strategy (April 2018) Rev A. Provision shall be made within the site for the disposal of surface water so that none drains on to any County Highway. Once agreed, the development shall proceed in accordance with the approved scheme, which shall be fully operational before any of the proposed dwellings are first occupied, and shall be permanently retained and maintained in accordance with the approved details.

5. No part of the development hereby permitted shall be commenced until the detailed design of the proposed surface water drainage management system which will serve the development site for the full period of its construction has been submitted to, and approved in writing by, the Local Planning Authority, in consultation with Devon County Council as the Lead Local Flood Authority. This temporary surface water drainage management system must satisfactorily address both the rates and volumes, and quality, of the surface water runoff from the construction site.
6. The proposed estate road, 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.
7. The occupation of any dwelling shall not take place until the following works have been carried out in accordance with the details approved under condition 4:
 - 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
8. Before the commencement of development, a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority. The CEMP shall identify the steps and procedures that will be implemented to minimise the creation and impact of noise, vibration, dust and waste disposal resulting from the site preparation, groundwork and construction phases of the development and manage Heavy/Large Goods Vehicle access to the site. It shall include details of the hours of

operation and measures to be employed to prevent the egress of mud, water and other detritus onto the public and any non-adopted highways. Once approved the CEMP shall be adhered to at all times, unless otherwise first agreed in writing with the Local Planning Authority.

9. Prior to commencing works on the footpath improvements, full details shall be submitted to and approved in writing by the Local Planning Authority, in consultation with the Highway Authority.
10. The development shall take place only in accordance with the recommendations in the Preliminary Ecological Appraisal by Blackdown Environmental dated December 2017, submitted to the Local Planning Authority on the 21st of March 2018.
11. The development shall take place only in accordance with the Arboricultural Method Statement by Blackdown Environmental dated 11th January 2018, the tree protection fencing shall be erected prior to the commencement of any works and shall be retained for the entire duration of the development construction, in accordance with the Tree protection fencing details contained on page 22 of the report and Tree Protection Plan 17.97.28 submitted to the Local Planning Authority on the 25th of April 2018, detailing the locations of the tree protection fencing. The trees identified shall be retained.
12. Any external lighting installed on site shall be in accordance with a sensitive lighting plan that shall have been submitted to and approved in writing by the Local Planning Authority before any external lighting is installed.
13. Prior to their first use on the buildings details and a sample of the proposed materials to be used on the walls and roofs of the proposed dwellinghouses shall be submitted to and approved in writing by the Local Planning Authority. The approved materials shall be so used and retained.
14. Before their installation, details of the external windows and doors (including garage doors) to be used in the development, shall be submitted to and approved in writing by the Local Planning Authority. Only such approved windows and doors shall be used.
15. The external windows and doors shall be recessed into the walls in accordance with details that shall have been submitted to and approved in writing by the Local Planning Authority before the windows and doors are installed.
16. Within 9 months of the commencement of development, a landscaping scheme shall be submitted to, and approved in writing by the Local Planning Authority, a landscaping scheme shall include details of hard and soft landscaping proposed, including any changes proposed in existing ground levels and a sample of the paving proposed for the shared surface driveways and the parking areas. All planting, seeding, turfing, earth reprofiling and hard landscaping 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.
17. Notwithstanding the boundary treatment details provided on the Site Layout House Types drawing 17.97.01D, within 12 months of the commencement of development details of the

boundary treatments, including materials, heights and any boundary treatment and safety features around the attenuation basin, shall be submitted to and approved in writing by the Local Planning Authority. The attenuation basin safety features shall be provided in full prior to the first occupation of any dwelling houses on the site and shall be retained and maintained thereafter.

18. CRR1 PD Rights removed (certain classes) - Notwithstanding the provisions of Article 3 of The Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no development of the types referred to in Classes A, B, C, D, E or F of Part 1 of Schedule 2 or Class A of Part 2 of Schedule 2 relating to the enlargement, improvement or other alteration of the house (including the installation of new windows or doors or the replacement of existing windows and doors), alterations to the roof of the dwellinghouse, the erection or construction of a porch outside any external door, provision of hard surfaces, or the erection construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure on the dwelling or within the dwelling curtilage without the Local Planning Authority first granting planning permission.

REASONS FOR CONDITIONS

1. RD1 in accordance with provisions of Section 51 of the Planning and Compulsory Purchase Act 2004
2. RD7A for the avoidance of doubt in the interests of proper planning.
3. To ensure that surface water from the development is managed appropriately on site taking account of the existing ground conditions and to ensure surface water from the development is discharged as high up the drainage hierarchy as feasible, in accordance with policy DM2.
4. To ensure that surface water runoff from the development is discharged as high up the drainage hierarchy as is feasible, and is managed in accordance with the principles of sustainable drainage systems, in accordance with policies COR11 and DM2.
5. 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, in accordance with COR11.

To ensure that adequate information is available for the proper consideration of the detailed access proposals, in accordance with COR9.

6. To ensure that adequate access and associated facilities are available for the traffic attracted to the site in accordance with COR9 and DM8.
7. To ensure that the construction process is appropriately managed without having an unacceptable impact on the occupants of neighbouring properties, in accordance with policy DM2.
8. To ensure adequate details are provided to ensure there is a safe and suitable pedestrian access to the village, in accordance with policies DM2 and COR9.

9. To ensure the proposal does not detrimentally impact on the ecological interests of the site in accordance with policy DM2.
10. To ensure the development makes a positive contribution to the landscape character and visual amenity of the area in accordance with policies COR2, DM2 and DM29.
11. To ensure the proposal does not detrimentally impact on the ecological interests of the site in accordance with policy DM2.
12. To ensure the materials used are appropriate and that the development makes a positive contribution to the character and amenity of the area in accordance with policies DM2, DM29 and COR18.
13. To ensure the materials used are appropriate and that the development makes a positive contribution to the character and amenity of the area in accordance with policies DM2, DM29 and COR18.
14. To ensure the development makes a positive contribution to the character and amenity of the area in accordance with policies DM2, DM29 and COR18.
15. To ensure the development makes a positive contribution to the character and amenity of the area in accordance with policies DM2, DM29 and COR18.
16. To ensure materials are appropriate to safeguard the safety, privacy and amenity of the occupiers and the character and appearance of the area, in accordance with COR2, DM2 and DM29.
17. To safeguard the visual amenities and the character and appearance of the area, the amenities of the occupiers of the dwellings proposed and neighbouring properties, and to safeguard against the overdevelopment of the site, in accordance with Policy COR2, DM2 and DM29.

INFORMATIVES

None

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

The proposal is, on balance, considered to be acceptable in that the development would provide ten market dwellings and four affordable dwellings in a sustainable location. In addition, the proposal will provide financial contributions towards public open space and education infrastructure, along with footpath improvements to improve the site accessibility and pedestrian access to and from the village for all users. The site layout is clearly defined and takes account of the physical context and local character. The houses are of a high quality design and suitable size to take account the changing needs of the occupiers; each dwelling benefits from external amenity space and private parking. The site has a safe and suitable access and adequate parking provision. It has been demonstrated that the ecological interests of the site can be mitigated and enhanced and that surface water can be appropriately managed. It is considered that the development is capable of being introduced within the landscape without undue harm to the character of the landscape and the setting of the AONB, bearing in mind the low visibility of the site within the landscape and the benefits of the provision of market and affordable dwellings.

Overall, the proposal is considered to be in accordance with policies DM1, DM2, DM3, DM4, DM8, DM14, DM15, DM27 and DM29 of the Local Plan Part 3 [Development Management Policies]; COR1, COR2, COR3, COR8, COR9, COR11, COR17 and COR18 of the Mid Devon Core Strategy; policies AL/DE/2, AL/DE/3, AL/DE/4, AL/DE/5, AL/IN3 and AL/IN/5 of the Allocations and Infrastructure Development Plan Document; Meeting Housing Needs SPD [2012], Parking provision in new development SPD [2013], Refuse Storage for New Residential Properties SPD [2017], and; the National Planning Policy Framework.

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

Application No. 18/00283/OUT

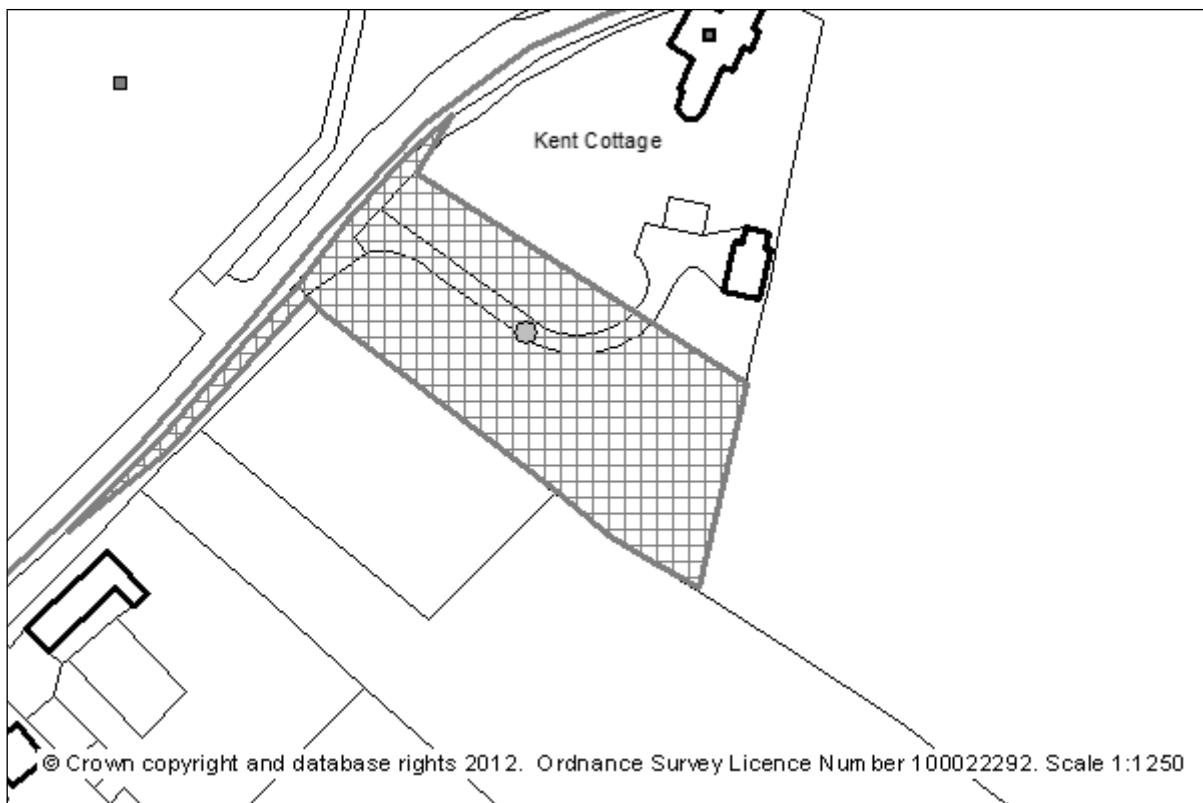
Grid Ref: 301810 : 115319

Applicant: Mr & Mrs Floyd

Location: Jaspers Green
Uplowman
Tiverton
Devon

Proposal: Outline for the erection of a dwelling and alterations to vehicular access

Date Valid: 13th February 2018



APPLICATION NO: 18/00283/OUT

MEMBER CALL-IN

Cllr R Radford called in for the following reason:

As is the case with an adjacent site for which permission was recently granted, the provision of a single dwelling at this location is considered to have no unacceptable impact on the visual amenity, according to the provisions of Paragraph 14 of the National Planning policy Framework.

RECOMMENDATION

Refuse permission

PROPOSED DEVELOPMENT

Outline for the erection of a dwelling and alterations to vehicular access

The proposal is an outline application for the erection of 1 dwelling on land on the eastern edge of the village of Uplowman, with an altered vehicular access from the Class C road to the north of the site. The proposed access would be to the western side of the site with visibility splays which will entail the removal of a section of the boundary hedge.

Only the principle of the erection of the dwelling and the access are to be determined under this outline application with layout, scale and appearance of the dwelling and landscaping of the site reserved for later consideration under a reserved matters application.

The site comprises approximately 0.24 hectares of agricultural/garden/pasture land. There is one dwelling to the north which is approximately 50 metres away (Jaspers Green) to the other side is a recent approval for a new dwelling approved by Planning Committee 17/01108/OUT.

APPLICANT'S SUPPORTING INFORMATION

Planning statement
Access statement
Phase 1 habitat survey report
Reptile survey report
Foul drainage assessment form

RELEVANT PLANNING HISTORY

00/01845/FULL - PERMIT date 18th January 2001

Erection of extensions to provide increased accommodation at ground and first floor levels

86/00397/FULL - PERMIT date 8th May 1986

Removal of condition (b) 4.54.75.1112.BR re. no direct retailing or produce from the greenhouse to the general public construction of new access and car park

86/00675/FULL - PERMIT date 27th May 1986

Erection of double garage, utility, shower room extension

94/02178/FULL - PERMIT date 8th February 1995

Conversion of existing garage into living accommodation, erection of a new conservatory, minor alterations, and alterations to vehicular and pedestrian accesses

16/00318/HOUSE - REFUSE date 29th April 2016

Erection of extension and conversion of existing garage to annexe

DEVELOPMENT PLAN POLICIES

Mid Devon Core Strategy (Local Plan Part 1)

COR1, COR2, COR3, COR9, COR11, COR12, COR18

AIDPD (LP2)

AL/IN/3

Mid Devon Local Plan part 3 (Development Management Policies)

DM1, DM2, DM8

National Planning Policy Guidance

SPD open space

CONSULTATIONS

Highway Authority - 28th February 2018 - Standing advice applies please see Devon County Council document <http://www.devon.gov.uk/highways-standingadvice.pdf>

PUBLIC HEALTH - 8th March 2018 - Contaminated Land - No objection

Air Quality - No objection

Environmental Permitting - No objection

Drainage - No objection

Noise & other nuisances - No objection

Housing Standard - No comment

Licensing - No comments

Food Hygiene - N/A

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

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

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

Health and Safety - No objection

UPLOWMAN PARISH COUNCIL - This application was discussed at some length at Uplowman PC's meeting on 15 March. Uplowman Parish Councilors voted not to oppose the application. Although the village remains unsustainable in planning terms, in that it does not have a shop or daily bus service, this particular proposal will improve safety at the exit of the school path onto the adjacent highway.

As is the case with an adjacent site for which permission was recently granted, the provision of a single dwelling at this location is considered to have no unacceptable impact on the visual amenity, according to the provisions of Paragraph 14 of the National Planning Policy Framework.

REPRESENTATIONS

There have been 13 representations all of which are supportive of the proposal.

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. **Access**
3. **Indicative layout, including parking and potential effects on neighbouring residents**
4. **Landscape, visual amenity, ecology, archaeology**
5. **Drainage**
6. **Public open space contribution and other financial considerations**
7. **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/Garden/pasture 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.

Uplowman is not one of the defined villages listed in COR17 as it is not considered to have the facilities, employment and public transport required for day to day living. Uplowman has a primary school, pub and village hall. In addition it has a Post Office counter open Monday, Tuesday and Thursday mornings only and a bus once a week. Whilst development at Uplowman could potentially help support facilities in neighbouring villages, it is more likely that if residents have to drive to facilities anyway, they would drive to Tiverton which has a much wider range of services and facilities (5 km) rather than Sampford Peverell (1.8 km).

The status of Uplowman was reviewed for the emerging Local Plan Review (now submitted for examination) and it was concluded that Uplowman did not have the facilities to include it in the defined villages list and make it suitable for limited housing growth. Whilst Uplowman does have a primary school that would welcome new children, it does not have a shop or public transport service. These are the 3 essential services that the emerging Local Plan Review considers appropriate for a limited level of development.

The application does not propose affordable housing to meet local needs and does not evidence a need locally for additional housing, for example in the form of a housing needs survey. Whilst new housing may provide some additional support to the remaining services within Uplowman, it is not considered that one additional dwelling would support the re-opening of a shop or the running of a more regular bus service. Uplowman Parish Council has stated that their long-standing policy is that there should be no new development in the village. The village has limited infrastructure, no significant public transport links and no local demand for housing has been identified, although the Parish are not opposing this proposal.

An appeal for a single dwelling on nearby land was dismissed on 11th February 2016 (15/00979/OUT). The appeal Inspector stated that policies COR1 to COR12 of the Mid Devon Core Strategy embodied the principles of sustainable development set out in paragraphs 17, 30 and 37 of the NPPF that seek to manage patterns of growth so as to minimise journey lengths and

make the fullest possible use of public transport, walking and cycling. The Inspector noted that the range of services within Uplowman is very limited, there being no shop and an infrequent bus service. He stated that accessibility to a wide range of services was poor and there would be a high dependency on the usage of the private car. The Inspector concluded that the proposal would not amount to sustainable development due to the extent it conflicts with other NPPF objectives. Although at the time, Mid Devon had not then been challenged on its 5 year housing land supply, the Inspector's comments with regard to the sustainability of Uplowman and the development's conflict with the objectives of the NPPF are still relevant.

In addition, planning committee recently refused an application for 8 dwellings within Uplowman under reference 17/00033/OUT on the grounds that Uplowman is not considered to be a sustainable settlement for additional residential development.

Your officers do not consider that the proposed development would represent sustainable development, contrary to policies in the Mid Devon Core Strategy and in the NPPF.

2. Access

Access to the site is to be determined under this outline application.

An enhanced access is proposed in the existing location and visibility splays would be provided. The Highway Authority has referred to standing advice, for this site there is poor visibility to the east although the intention is to relocate part of the hedge to provide appropriate visibility in this direction.

The proposal is considered to be in accordance with policy DM2 of the LP3 DMP in respect of a safe access being provided. However, the proposal would be contrary to policy COR9 of the Mid Devon Core Strategy which seeks to co-ordinate development and transport planning to improve accessibility and reduce the need to travel by car.

3. Indicative layout, including parking and potential effects on neighbouring residents

No indicative layout plan has been submitted with the application. However, the plot is large enough to accommodate one dwelling, adequate parking and turning facilities, amenity space and bin storage.

Subject to design, a dwelling could be accommodated on the site without leading to any unacceptable loss of privacy or amenity for neighbouring residents.

The development is capable of comply with policies DM2 of the LP3 DMP with regard to high quality design, DM8 with regard to parking standards and DM14 with regard to design of new housing, including adequate amenity space and bin storage.

4. Landscape, visual amenity, ecology, archaeology

Although landscaping is a reserved matter, the application refers to new hedges being provided to the front boundary.

There is a hedgerow along the front boundary which the ecology report identifies. The hedge is considered to contribute to the rural character of the area. The character of the road out of the village on the side of the road on which the site lies, is considered to be residential up to Twin Oaks to the south east, and then the character changes to rural as the lane is lined on both sides

by hedgebanks with agricultural land beyond. To the north east of the site, there is a single dwelling with a hedge frontage.

The application documentation states the extent of hedgerow removal required to accommodate the access and visibility splays across the frontage of the site is to be approximately 25m. A reason for refusal is recommended on lack of information on hedgerow removal and the potential negative impact on the rural character and visual amenities of the area.

The submitted ecological assessment confirms that the land is of low ecological value, the only feature of interest being the hedgerow alongside the road and the fruit trees.

The hedgerow is therefore considered to be of value both for its ecological value and also for its landscape value. Without information on the precise alterations proposed, the development is considered to be contrary to policies COR2 and COR18 of the Mid Devon Core Strategy (LP1) and DM2 of the LP3 DMP.

5. Drainage

Policy DM2 of the Local Plan 3 Development Management Policies requires appropriate drainage including SUDS, and connection of foul drainage to a mains sewer where available.

The application form refers to the surface water and foul drainage being “unknown”.

It is understood that there is mains drainage in Uplowman for foul drainage but no explanation has been provided as to why it is not possible to connect into this system.

No explanation has been provided as to why a SUDS system cannot be provided on site.

It is recommended that the application is refused on lack of information on foul and surface water drainage proposals. The development is considered to be contrary to policy DM2 in this respect.

6. Section 106 including affordable housing, education and public open space and other financial considerations

No public open space is intended to be provided on site. 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. The applicant has not as yet made a financial contribution of £1,205 towards the improvement of sporting facilities at Crossways Playing Field, Uplowman.

The proposed dwelling would be eligible for counting towards the New Homes Bonus. If the New Homes Bonus is distributed across Council Tax Bands in the same way as in 2015, the award for each house would be £1,028 per year. Assuming completion in 2017/18 the award would be paid over a period 5 years, amounting to £5,140. If completion takes place in 2018/19, the period would be reduced to 4 years, amounting to £4,112.

7. Planning balance

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 and weight must be given to this. The proposal is acceptable in highway safety terms and the site has the potential to accommodate a dwelling with adequate parking, turning and amenity space, and without having an unacceptable impact on the privacy and amenity of neighbouring residents. The financial contribution towards play area provision mitigates the increased use of facilities likely through the development. However, Uplowman is not considered to be a sustainable settlement in that it lacks the day to day facilities that make it suitable for even limited housing growth, having only one of the three essential services that the existing Development Plan and emerging Local Plan Review consider appropriate for a limited level of development. Whilst Uplowman does have an education facility, it does not have a shop or public transport service (one bus a week). Accessibility to a wide range of services is poor and there would be a high dependency on the usage of the private car. In your officers' opinion, the proposal would not amount to sustainable development and therefore conflicts with the sustainability objectives of the NPPF. In addition, the lack of information on hedgerow removal and the likely impacts this may have on the character of the lane and the visual amenities of the area weigh against the proposal. The lack of a suitable SUDS scheme and justification for non-mains drainage also weigh against the proposal.

The harm caused by the conflict with the NPPF and the lack of information on the likely effects of the development on the character and amenity of the area and the environment are considered to significantly and demonstrably outweigh the benefits.

The proposal is considered to be contrary to policies: COR1, COR2, COR9, COR12 and COR18 of the Mid Devon Core Strategy (LP1), DM2 of the LP3 DMP, and the sustainability objectives of the National Planning Policy Framework. Refusal is therefore recommended.

REASONS FOR REFUSAL

1. The Local Planning Authority does not consider Uplowman to be a sustainable settlement in that it lacks the day to day facilities that make it suitable for housing growth. Uplowman has only one of the three essential services that the Local Planning Authority considers necessary for even a limited level of new housing development. Whilst Uplowman does have an education facility, it does not have a shop or public transport service (one bus a week). Accessibility to a wide range of services is poor and there would be a high dependency on the usage of the private car. In the opinion of the Local Planning Authority, the proposal would not amount to sustainable development and therefore conflicts with the sustainability objectives of the NPPF. The harm caused by this conflict is considered to significantly and demonstrably outweigh the benefits of the development in providing new housing in the District.

The proposal is considered to be contrary to policies: COR1, COR9, COR12 and COR18 of the Mid Devon Core Strategy (LP1) and the sustainability objectives of the National Planning Policy Framework.

2. There is a hedgerow along the boundary of the site with the road. The application is silent on whether all or part of the hedgerow would need to be removed to facilitate the new access and visibility splays. The hedgerow is considered to contribute towards the rural character of the lane and the visual amenities of the area and its removal would be detrimental to the rural quality of the area. The proposal is therefore considered to be contrary to policies COR2 of the Mid Devon Core Strategy (LP1), DM2 of the Local Plan 3 Development Management Policies and the objectives of the National Planning Policy Framework.

3. The application provides no details of the foul drainage proposals for the dwelling. Policy DM2 of the Local Plan 3 Development Management Policies requires appropriate drainage to be provided including SUDS, and connection of foul drainage to a mains sewer where available. No justification has been provided that the dwelling could not be provided with a connection to the main sewer for foul drainage or that a SUDS scheme or soakaway could not be provided on site, contrary to policy DM2 of the LP3 DMP.
4. Policy AL/IN/3 requires that new residential proposals will contribute to the provision of public open space of at least 60sqm of equipped and landscaped public open space per market dwelling, within the local area. In this case there is a requirement for the provision of £1205 be provided towards Improvements, including lighting and re-surfacing of tennis courts at Longmead Sports Pavillion, Hemyock. Along with a monitoring fee of £110.80. To date, no arrangements have been made by the applicant to secure the provision of this contribution. The proposed is therefore contrary to policy AL/IN/3 of the adopted Allocations and Infrastructure Development Plan Document.

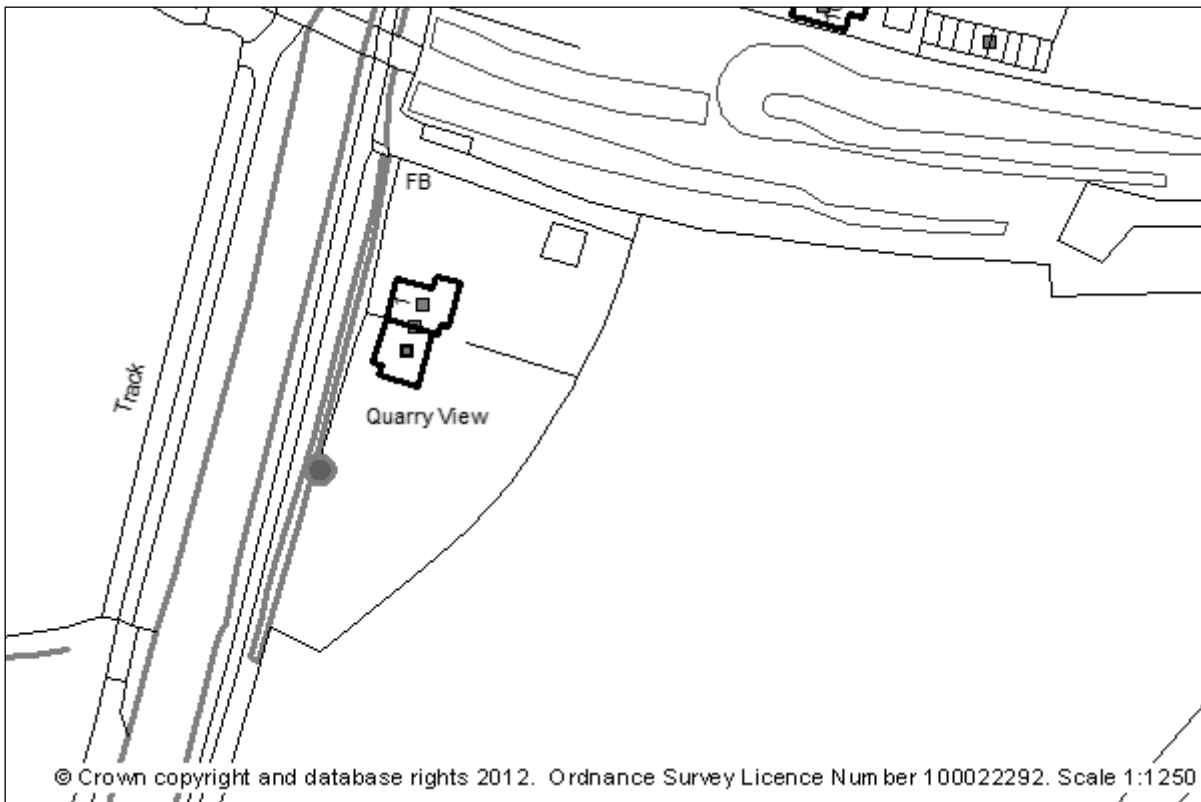
The Human Rights Act 1998 came into force on 2nd October 2000. It requires all public authorities to act in a way which is compatible with the European Convention on Human Rights. This report has been prepared in light of the Council's obligations under the Act with regard to decisions to be informed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

Tree Preservation Order: 18/00002/TPO

Grid Ref: 306935 : 116863

Location: 2 Quarry View
Burlescombe
Tiverton
Devon

Proposal: Tree Preservation Order for 1 Willow tree



REPORT OF THE HEAD OF PLANNING AND REGENERATION

Reason for Report:

To consider whether the Tree Preservation Order should be confirmed in light of the objections that have been received.

RECOMMENDATION

That the Tree Preservation Order 18/00002/TPO is confirmed.

Relationship to Corporate Plan:

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

Financial Implications:

None

Legal Implications:

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

Risk Assessment:

None

Consultation carried out with:

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

PROPOSAL:

Tree Preservation Order for 1 Willow tree

RELEVANT SITE HISTORY/DESCRIPTION:

92/02137/FULL - PERMIT date 29th January 1993

Change of use of agricultural land to form extension to domestic curtilage

05/02137/CAT - PERMIT date 24th October 2005

Notification of intention to fell 1 no. Spruce tree within the Conservation Area

17/01696/CAT - NOBJ date 29th November 2017

Notification of intention to fell 2 Pine trees within the Conservation Area

18/00157/CAT - CLOSED date 7th March 2018

Notification of intention to fell 1 Weeping Willow tree within a Conservation Area

AMENITY EVALUATION:

Using the Poole System amenity evaluation form, the tree scored 17. A score >15 merits consideration for protection by Tree Preservation Order.

REPRESENTATIONS:

An objection has been received on the following grounds:

The roots have grown into a watercourse and block the flow of water when levels are low so have to be cleared away.

Branches die back naturally and then become a hazard from falling, possibly onto the nearby canal tow path.

Being a weeping willow branches often break off or get damaged (tear) in the winds and again could be dangerous if not dealt with

The branches over the garden are now obstructing the pathway.

MAIN ISSUES:

The Tree Preservation Order was made following a Conservation Area notification to fell the tree (18/00157/CAT). An amenity evaluation determined that the tree was worthy of protection by Tree Preservation Order.

The tree has high amenity value due to the canal side location and is in keeping with the area. Other neighbouring trees are due to be removed from the garden and this should enable the willow to become more of a specimen tree whilst at the same time increasing light and useable garden area (17/01696/CAT).

With regards to the objections raised:

The roots growing into the water course can still be dealt with as necessary, MDDC Tree Officer could discuss this matter with the tree owners as and when it became necessary to do so.

Branches die back naturally and then become a hazard from falling: This is typical for all trees and certainly not a reason for removing trees. If deadwood becomes a significant hazard it can be removed and there is no requirement to submit a Tree Works Application, dead and dangerous branches may be removed. It should be noted that where it is safe to do so it is advisable to retain deadwood due to the habitat value.

Any broken or storm damaged branches can also be managed under the dead and dangerous exception if and when they occur.

The branches over the garden obstructing the path: A Tree Works Application is required to determine any necessary pruning. In this scenario, due to the nature of weeping willows it may be possible to regard trimming the lower ends of branches over the footpath as '*de minimus*' works which may not require an application. This should be discussed with MDDC Tree Officer when required.

None of the objections to the Tree Preservation Order are justification for removing the tree. The tree is within a Conservation Area so was previously protected. The Tree Preservation Order will ensure that good management is practiced as the tree matures.

SUMMARY:

Due to the amenity value of the tree in the canal side location to preserve the character of the area the Tree Preservation Order should be confirmed.

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