

REPORT OF THE HEAD OF PLANNING AND REGENERATION

Reason for Report:

At the Planning Committee meeting on 23rd October 2019, Members advised that they were minded to refuse the above application and invited an implications report for further consideration.

RECOMMENDATION(S)

Subject to the prior signing of a s106 obligation to secure:

- 1) 35% affordable housing in accordance with a scheme to be agreed by the Local Planning Authority
- 2) A financial contribution of £65,763 towards secondary school infrastructure at Clyst Vale Community College, £7,638 for transport to secondary school due to the development being further than 2.25 miles from Clyst Vale Community College. This figure arising from a development of 20 dwellings resulting in 3 secondary pupils. An Early Years contribution of £5,000 (£250 per dwelling).
- 3) A financial contribution of £18,746 towards public open space provision in the Parish of Silverton, this figure based on an outline application for 20 dwellings.

Grant planning permission subject to conditions.

Relationship to Corporate Plan:

Homes

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

Environment

- Protect the natural environment

Financial Implications:

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

Legal Implications:

The report identifies the risks in proceeding with an appeal based on the reasons given by the Committee on 23rd October 2019 – both in terms of outcome of an appeal and the risk of a costs decision. The Council will still need to prepare draft planning conditions for the appeal and negotiate and complete a section 106 agreement. External legal representation may be required if the appeal proceeds to a public inquiry.

Risk Assessment:

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

Consultation carried out with:

1. Statutory Consultees

1.0 BACKGROUND:

1.1 At the meeting on 23rd October 2019, Members indicated they were minded to refuse the application and therefore wished to defer the application for consideration of an implications report to consider the proposed reasons for refusal, that of:

- The Local Plan Review is at an advanced stage and neither the adopted Local Plan nor the Local Plan Review allocate this site which lies outside of the settlement limits of Silverton for housing development.
- The Council considers that it is able to demonstrate a 7.43 year housing land supply without the development site and there is no need for this further housing.
- The development would have an unacceptable visual impact.
- Unacceptable harm would arise as a result of the proposed access arrangements and traffic generation arising from the development.
- If granted the development would have an unacceptable cumulative impact with other housing granted in the village.

2.0 FURTHER OFFICER ADVICE:

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

2.2 The Local Plan Review is at an advanced stage and neither the adopted Local Plan nor the Local Plan Review allocate this site which lies outside of the settlement limits of Silverton for housing development.

Your officers advised in the committee report that the site is outside the settlement boundary of Silverton but is immediately adjacent to it. Policy COR 17 of the Core Strategy allows for minor development within the defined settlement boundary for Silverton but outside of the settlement limits, Policy COR18 would apply. COR18 does not support unrestricted dwellings in the countryside. Your officers indicated that the proposal is therefore considered to be contrary to policies COR17 and COR18 of Mid Devon's adopted development plan being a major proposal for residential development outside the current settlement limit. It is also noted in the committee report that a 7.43 year housing land supply can be demonstrated against an annual housing need of 364 for the period 1 April 2018 to

31 March 2023. This takes account of the identified supply of deliverable sites and a 5% buffer based on the results of the Housing Delivery Test.

However, the adopted Mid Devon Core Strategy Policies COR3, COR17 and COR18 are not consistent with relevant policies in the 2019 NPPF and therefore should be accorded limited weight in planning decisions until they are replaced. The tilted balance, as set out in the NPPF, continues to apply to the determination of planning applications concerning proposed housing development in Mid Devon, including this proposed development.

Regarding the tilted balance, Paragraph 11 of the NPPF 2019 states:

'Plans and decisions should apply a presumption in favour of sustainable development.

For decision-taking this means:

c) approving development proposals that accord with an up-to-date development plan without delay; or

d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or

ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.'

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 NPPF. Housing applications need therefore to be considered in the context of sustainable development and planning permission granted unless the harm identified significantly and demonstrably outweighs the benefits.

Forward Planning have advised that draft policies in the Mid Devon Local Plan Review, where relevant, will be material to the determination of planning proposals and weight given in accordance with paragraph 48 of the 2019 NPPF. Only the adoption of the Mid Devon Local Plan Review will allow the policies within this emerging plan to carry full legal weight for the determination of planning applications concerning proposed housing development in Mid Devon.

The Local Plan Review has been through public examination and the Inspector has now agreed the main modifications that are to be consulted on for a period of 6 weeks, although this consultation has not yet begun. The Local Plan Review has not yet been adopted. At the time of writing this report, as the Planning Inspector has not raised any objection to the residential development allocations proposed in Silverton, the Local Plan Review is considered to carry some weight in consideration of this planning application. The two sites in Silverton that have been identified in the Local Plan Review for residential development, SI1 and SI2 both now have planning permission, for a total of 10 dwellings across the two sites.

However, your officers consider that the weight that can be attributed to the Local Plan Review in this case is outweighed by the presumption in favour of sustainable development as no harm has been identified that significantly or demonstrably outweighs the benefits.

With this in mind, your officers do not consider that a reason for refusal in relation to the weight to be given to the Local Plan Review, in this instance, would be successful.

2.3 The Council considers that it is able to demonstrate a 7.43 year housing land supply without the development site and there is no need for this further housing.

The Council is satisfied that it can demonstrate a 7.43 year housing land supply without the development site. However, your officers do not agree that this means that the proposed development should be refused on this basis.

The Forward Planning team have reviewed this position and they have clarified that notwithstanding that a 5 year supply requirement has been met, the adopted Mid Devon Core Strategy Policies COR3, COR17 and COR18 are not consistent with relevant policies in the 2019 NPPF and therefore should be accorded limited weight in planning decisions until they are replaced. The tilted balance therefore continues to apply to the determination of planning applications concerning proposed housing development in Mid Devon.

The development would be required to provide 35% affordable housing (neither of the two proposed allocation sites in Silverton are large enough to meet the threshold for affordable housing so will not assist in meeting the need in Silverton for affordable homes). The Housing Enabling Officer has indicated that there is a need for 7 affordable homes in Silverton (excluding Band E) and a need for 23 affordable homes in Silverton if Band E applicants are included). The development would provide 7 affordable homes and could therefore be extremely positive in the requirement to provide decent and affordable homes to people waiting for such properties in Silverton.

With this in mind, your officers do not consider that a reason for refusal in relation to the Council having a 7.43 year housing land supply would be successful.

2.4 The development would have an unacceptable visual impact.

Policy COR2 of the Mid Devon Core Strategy seeks high quality sustainable design that reinforces the character and legibility of Mid Devon's built environment and landscape and creates attractive places. Any landscape impacts of a development on the site would form part of the reserved matters application. Policy DM2 requires development to demonstrate a number of positive development principles including a clear understanding of the characteristics of the site, its wider context and the surrounding area and creating visually attractive places that are well integrated with surrounding buildings, streets and landscapes taking in to account architecture, siting, layout and massing, materials, landscaping and green infrastructure. The number and physical placement of dwellings on the site would be considered as part of a reserved matters application. The outline application considers the principle of providing 20 dwellings on the site.

The application site is concordant with the existing settlement limit of Silverton. The proposed development would have the relatively modern development of Silverdale to the east, modern affordable dwellings in Exe View to the north and relatively modern properties in Applemede to the south. Only its western side would be adjoining open countryside. The presence of existing dwellings would help to assimilate the proposed development into the landscape.

The site is not located within a designated landscape although it has been noted that there is a conservation area further to the south where the development could be viewed from a number of heritage assets.

The field within which the site forms part is sloping and rises in a northerly direction. The Landscape Character Type (LCT) for this area is 3G River valley slopes and combs. This landscape of valley sides and valley floors, is described as strongly undulating with a variety of sloping land, sometimes incised, steeply rising and sometimes more gradual in character.

It is stated to be a tightly rolling, medium to small scale landform, this landscape has generally been carved away by tributaries of the Rivers Exe, Taw and Creedy. The landscape scale is typically small to medium and the combinations of the incised landform and repeated medium scale and field patterns give the landscape a relatively enclosed scale enclosures of pasture. The assessment states that this is a landscape with high degrees of variation in terms of the levels of visual containment. The Mid Devon town and village character assessment indicates that settlements in the Lower Exe settlement character area (including Silverton, Thorverton and Bickleigh), tend to have developed over time by spreading up onto higher land.

This is the case with Silverton and this northern part of Silverton has certainly developed over time with the relatively modern developments of Silverdale, Applemede and Exe View surrounding the proposed development site. The proposed site is lower in the landscape than the existing properties in Exe View and a number of the properties in Silverdale. The application site is bound on its western boundary by mature hedgerow with interspersed hedgerow trees. The southern and eastern boundaries are hedged, but at a lower height than the western boundary. The northern boundary would in part be a new, within field boundary (likely to be a hedge or bank and hedge but subject to reserved matters consideration) and the remainder of the northern boundary would be likely to be a combination of the retention of the rear boundary of the existing properties in the north east corner of the field (Exe View) and the existing bank that currently separates this development from the remainder of the field.

Your officers consider that the development would be visually contained and that it would not result in an unacceptably harmful impact on the visual amenity of the surrounding area. Therefore subject to the above matters being taken into account at reserved matters stage it is considered that the landscape could adequately accommodate the proposed development in accordance with policy COR2 of the Mid Devon Core Strategy (LP1), policy DM2 Local Plan Part 3 (Development Management Policies) and the provisions of the NPPF.

With this in mind, your officers do not consider that a reason for refusal in relation to visual impact would be successful.

2.5 Unacceptable harm would arise as a result of the proposed access arrangements and traffic generation arising from the development.

The Planning Committee have indicated that they are concerned about harm that would be caused through the proposed access arrangements and the traffic generation from the development.

The development is proposed to be accessed by pedestrian and vehicular traffic via and Exe View and Silverdale to the north east of the application site. Officers are aware that concerns have been received about the access to the development through Silverton, either via Tiverton Road, Applemede and Silverton or via Fore Street and Silverdale. These concerns relate to a perceived lack of parking for existing residents resulting in congestion and the poor quality of the road surface on Applemede and Silverdale. While these comments are noted the Highway Authority, as a statutory consultee have not raised any objections subject to the imposition of relevant conditions.

The Highway Authority do not consider that there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe as a result of the development and its associated traffic generation and therefore the proposals are in accordance with the NPPF. They have raised no objection in terms of the volume of traffic generated by this development and using the proposed access via Silverdale subject to the imposition of a number of conditions including a Construction Management Plan.

The levels and location of parking provision proposed for the site are set out in current policy DM8 Local Plan Part 3 (Development Management Policies) which requires 1.7 spaces per dwelling. The amount and location of parking will need to form part of the reserved matters application and does not form a consideration under this application.

Policy COR9 of the Mid Devon Core Strategy seeks to improve accessibility, reduce the need to travel by car, and increase public transport use, cycling and walking, manage travel demand, reduce air pollution and enhance road safety through management of car parking and traffic and investment in transport services. Your officers consider that the site would be accessible and that occupiers of dwellings on the site would be able to walk into the village centre of Silverton to access services and facilities available. This would also allow residents to make use of the public bus routes that are already available. Review of the Stagecoach website has indicated that there are two bus routes that serve Silverton, one of which goes through the centre of the village. Between them the bus routes provide a relatively good level of public transport provision at the busiest times of the day.

While the surrounding roads may be well used to travel around/through the village and for residents to park their cars, there is no reason why the occupants of the proposed dwellings would want/need to park on these surrounding roads as the development would provide sufficient parking. While there would be additional vehicles using the public highway the increase in traffic does not correlate to an increase in demand for on street parking.

Your officers consider the development to be in accordance with the relevant adopted local plan policies and the NPPF, and this approach is supported by the Highway Authority. It is not therefore considered that a refusal based on harm through the access arrangements and traffic generation could be sustained.

2.6 If granted the development would have an unacceptable cumulative impact with other housing granted in the village.

The proposed development would provide up to 20 new homes on one site. There are two proposed allocations for dwellings in Silverton in the Local Plan Review SI1 and SI2. Both of these sites already have planning permission, for a total of 10 dwellings across the two sites.

The population of Silverton according to the 2011 census is 1,494, however information in the draft Silverton neighbourhood plan indicates a parish population of 1,875 in 2011 with 864 dwellings. Records show that since 2011 there has been 38 dwellings approved within the parish of Silverton, with at least 16 of those being outside the settlement limits (barn conversions etc). The proposed development would provide a further 20 dwellings bringing a total of 58 dwellings approved (not built) since 2011 (9 years). Assuming that each of those approved properties housed 4 people, the total addition to the population of Silverton would be 232 people. This represents approximately 8 % increase in the population size of Silverton over the nine years if each of the dwellings proposed were built and occupied (by 4 people) by the end of 2019 with the development itself representing approximately 3.9% of the overall population increase.

With regard to the number of dwellings, in 2011 the census indicated there were 864 dwellings in the parish. Since then 38 dwellings have been provided in Silverton Parish (at least 16 of which are not in the village settlement limits of Silverton). Assuming all 38 of these dwellings have been built (which they haven't), the total number of dwellings in the parish would be 902. The proposed 20 dwellings would represent an additional 2.2% of dwellings which is not considered to be a considerable amount.

Your officers do not consider that the potential provision of an additional 2.2% of dwellings in Silverton parish that the proposal represents, or the potential increase in population size of the parish by 3.9% could reasonably be considered to equate to an unacceptable cumulative impact of development in Silverton parish, within even less impact if the village were to be considered in isolation from the remainder of the parish.

With this in mind, your officers do not consider that a reason for refusal in relation to unacceptable cumulative impact taking into account other housing granted in the village would be successful.

3.0 REASONS FOR REFUSAL:

3.1 Members are reminded that as the 'tilted balance' applies in this case that officers advise that they should grant planning permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole (para 11).

If, having considered all the above, Members still consider that the proposal should be refused, then consideration should be given to the following reason for refusal:

The development is for the erection of up to 20 dwellings outside the settlement limit boundaries of Silverton and represents a major residential proposal on a site for which there is no development planned for within either adopted or emerging policy and for which there is no current need as the Council can demonstrate a 7.43 year housing land supply without this site. The Local Planning Authority consider that the proposed unplanned development would be have an unacceptable visual impact, would cause unacceptable harm as a result of the proposed access arrangements and traffic generation arising from the development and would have an unacceptable cumulative impact on Silverton when taking into account other housing granted in the village. When tested against Paragraph 11 of the National Planning Policy Framework the Local Planning Authority consider that the adverse impacts of the proposed development would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework as a whole as well as being contrary to Policy COR1, COR2 and COR9 of the Mid Devon Core Strategy (Local Plan Part 1) and Policies DM1 and DM2 of the Mid Devon Local Plan Part 3 (Development Management Policies).

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Background Papers	Application file and previous committee report
File Reference	18/02019/MOUT
Circulation of the Report	Cllr Graeme Barnell