

## AGENDA ITEM – Planning Committee 15<sup>th</sup> July 2020

**Application No.** 19/01430/FULL

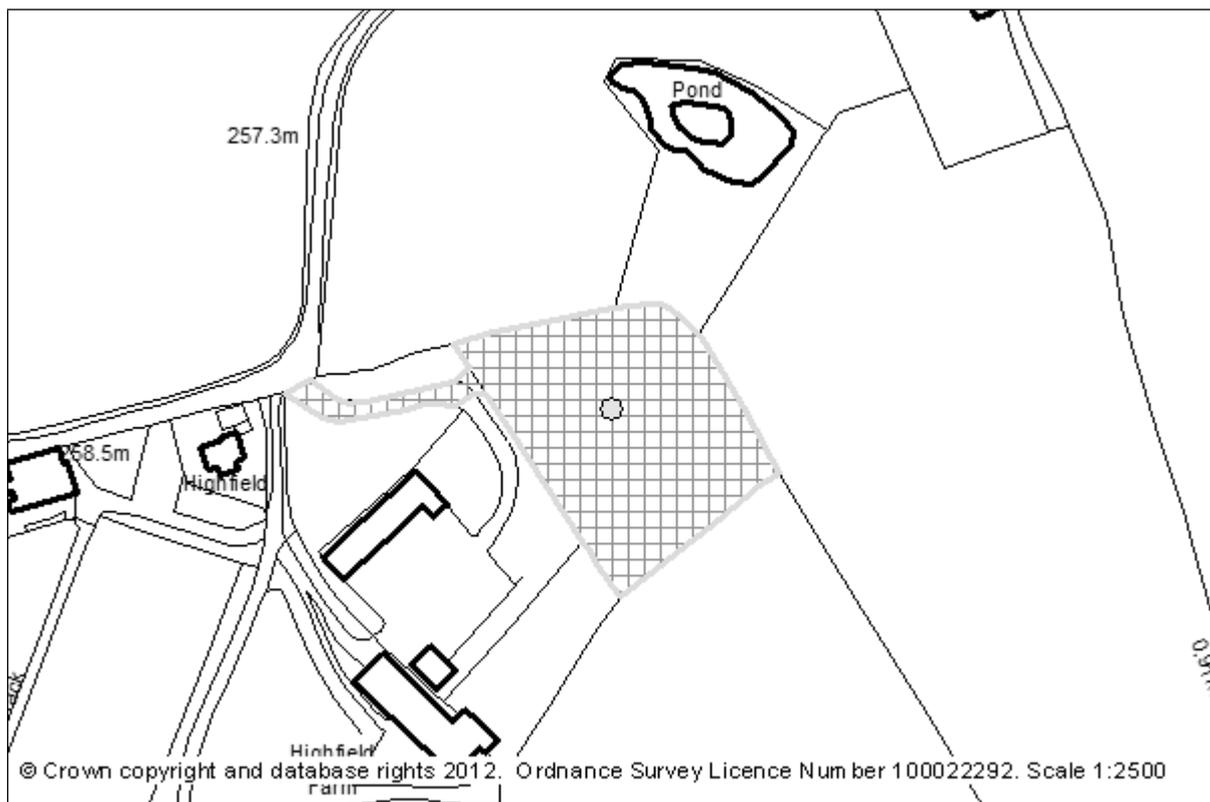
**Grid Ref:** 286163 : 123831

**Applicant:** Mr I Friend

**Location:** Land at NGR 286163  
123831 (Highfield  
Farm) Oakford

**Proposal:** Erection of an office  
building and change  
of use of land from  
agriculture to  
groundworks depot

**Date Valid:** 6th November 2019



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

19/01430/FULL - Erection of an office building and change of use of land from agriculture to groundworks depot

### **Description of Development:**

Erection of an office building and change of use of land from agriculture to groundworks depot

### **REASON FOR REPORT:**

**To consider the reasons for refusal proposed by the Planning Committee at the meeting of 17<sup>th</sup> June 2020 in light of further advice from Officers.**

### **RECOMMENDATION(S)**

**Grant permission subject to conditions**

### **Relationship to Corporate Plan:**

- Planning and enhancing the built 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 17<sup>th</sup> June 2020 – 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.

### **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.

At the Planning Committee held on 17th June 2020 Members of Planning Committee resolved that they were minded to refuse the above application contrary to officer recommendation and requested a further report to consider –

1. The Committee's draft reasons for refusal and
2. The implications of refusing the application,

REFUSAL The Committee was minded to refuse the application on the following grounds:

- Number of developments in the area
- Suitability of this particular business in this particular area
- Impact of noise on site and the number of hours worked

## **1. The Committee's reasons for refusal**

Set out below are the reasons for refusal which could appear on the planning decision notice:

- A) The proposed use of the site as a groundworks depot and office, having regard for the anticipated vehicle movements projected to be associated with this use and the type of equipment and materials which could be stored on the site, would, in combination with the existing adjacent employment site, constitute inappropriate development in the open countryside. It would erode the quality and character of this rural area and would therefore be contrary to policies COR2 and COR18 of the Mid Devon District Council Core Strategy, policies DM2 and DM20 of the Local Plan Part 3 (Development Management Policies), policies S9, S14 and DM18 of the Mid Devon Local Plan Review 2013-2033: Pre Adoption Draft and advice contained in the National Planning Policy Framework, in particular paragraph 170(b).
- B) The proposed development, given the nature of the proposed activity on site and the hours of operation, would result in an unacceptable level of disturbance for the occupiers of the nearby residential properties, contrary to policy DM2 of the Local Plan Part 3 (Development Management Policies), Policy DM1 of the Mid Devon Local Plan Review 2013-2033: Pre Adoption Draft and advice contained in the National Planning Policy Framework, in particular paragraphs 127(f) and 170(e).

## **2. The implications of refusing the application**

2.1.1 In respect of the determination of planning applications, the Planning Acts (section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004) state that they should be determined in accordance with the development plan unless material considerations indicate otherwise.

2.1.2 On 26<sup>th</sup> June 2020, Mid Devon District Council published the Inspector's Report on the Mid Devon Local Plan Review. The Inspector has concluded that the Local Plan is 'sound' subject to a number of main modifications being made. The Mid Devon Local Plan Review, taking account of the Inspector's conclusions, will be recommended for adoption at a meeting of full Council.

2.1.3 Consistent with National Planning Policy Framework paragraph 48, the publication of the Inspector's Reports increases substantially the weight that can be attributed to the Local Plan in decision making. The examination process has now concluded. The Inspector has concluded that the Local Plan is sound (subject to the main modifications which have been recommended) and, as such, there are no longer unresolved objections to the Local Plan Review. As such, substantial weight may now be attached to the policies of the Local Plan when making planning decisions.

2.1.4 The adopted development plan, in technical terms, remains the starting point for planning decision making. The Local Plan Review is however a material consideration to which substantial weight may now be attached.

2.1.5 Given the state of advancement of the Local Plan Review in the process toward adoption, it is considered that, generally, in the context of a planning decision, where there is a conflict between the outcome which arises from the application of policies of the adopted development plan and those of the Local Plan Review, the Local Plan Review will generally outweigh the adopted plan and will prevail. Where there is consistency, then the policies of the Local Plan Review add substantial weight in favour of the outcome which accords with the application of policies of the adopted development plans and those of the Local Plan Review.

2.1.6 The development plan is therefore the primary consideration and the NPPF acts as non-statutory guidance which should be taken as a material consideration and this is clear from paragraph 2 of the NPPF which states that it is a material consideration in planning decisions.

### **3. Consideration of the proposed reasons for refusal**

#### **3.1 Reason for Refusal (A)**

**A) The proposed use of the site as a groundworks depot and office, having regard for the anticipated vehicle movements projected to be associated with this use and the type of equipment and materials which could be stored on the site, would, in combination with the existing adjacent employment site, constitute inappropriate development in the open countryside. It would erode the quality and character of this rural area and would therefore be contrary to policies COR2 and COR18 of the Mid Devon District Council Core Strategy, policies DM2 and DM20 of the Development Management Policies document, policies S9, S14 and DM18 of the Mid Devon Local Plan Review 2013-2033: Pre Adoption Draft and advice contained in the National Planning Policy Framework, in particular paragraph 170(b).**

3.1.1 The following section will assess the evidence to support the aforementioned suggested reason for refusal.

3.1.2 Paragraph 83 of the NPPF states that planning decisions by Local Planning Authorities should enable the growth and expansion of all types of businesses in rural areas, both through conversion of existing buildings and well-designed new buildings. Policy DM20 of the adopted Development Management Policies plan aligns with the thrust of this paragraph, provided that the development is of an appropriate use and scale for its location and subject to the following criteria being met:

- a) The development would not lead to an unacceptable impact on the local road network;
- b) There would not be an unacceptable adverse impact to character and appearance of the countryside; and
- c) There are insufficient suitable sites or premises in the immediate area to meet the needs of the proposal.

This policy will be replaced in full by Policy DM18 of the Local Plan Review 2013-2033: Pre Adoption Draft when it is adopted.

3.1.3 The site at Highfield is a new employment site which has evolved from an existing business on the adjacent site at Wedgewood Buildings. The site is reasonably well contained in the landscape and is largely out of public view. It is located 0.2 miles from the Class B highway (B3223). The site is not a statutory protected wildlife site or within a

national or locally designated landscape and the change of use would not fall within the definition of 'major' development as defined by the Development Management Procedure Order. The Highways Authority has carried out a site visit and has not raised any objection based on the use of the existing access and projected vehicle movements. No alternative sites have been identified as being available for the proposed use in the immediate area. For these reasons Officers consider that the proposed development complies with the criteria set out in policy DM20. This policy does however require satisfaction that development in countryside locations are 'of an appropriate use and scale for their location' and would not result in 'an unacceptable impact on the character and appearance of the countryside'. Although officers maintain that the site is appropriate for the proposed use given the specific site characteristics it is acknowledged that there is subjectivity to this wording within the policy and that Members might take the view that the proposal is not acceptable, however to be successful at defending this reason at appeal it would need to be demonstrated that there would be unacceptable harm arising from the proposed development and given consideration of the above officers do not consider this argument could be substantiated at appeal.

3.1.4 Further, officers do not consider that the proposed development would be in conflict with policy COR2 which seeks to sustain local distinctiveness, character and environmental assets within the Mid Devon district area (to be replaced by Policy S9 of the Local Plan Review 2013-2033:Pre Adoption Draft) or policy COR18 which permits appropriately scaled employment development (to be replaced by Policy S14 of the Local Plan Review 2013-2033:Pre Adoption Draft).

## **3.2 Reason for refusal (B)**

**B) The proposed development, given the nature of the proposed activity on site and the hours of operation, would result in an unacceptable level of disturbance for the occupiers of the nearby residential properties, contrary to policy DM2 of the Local Plan Part 3 (Development Management Policies), Policy DM1 of the Mid Devon Local Plan Review 2013-2033:Pre Adoption Draft and advice contained in the National Planning Policy Framework, in particular paragraphs 127(f) and 170(e).**

3.2.1 The following section will assess the evidence to support the aforementioned suggested reason for refusal.

3.2.2 Paragraph 127 (f) of the NPPF requires developments to have a high standard of amenity for existing and future users and paragraph 170(e) states planning policies and decisions should contribute to and enhance the natural and local environment by preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Policy DM2 states that development should not have an unacceptable adverse effect on the amenity of neighbouring properties. This requirement is re-imposed in Policy DM1 of the Mid Devon Local Plan Review 2013-2033: Pre Adoption Draft. The Council's Public Health department has appraised the noise assessment submitted with the application and considers that with a restriction on hours that machinery could be operated on the site (set as between the hours of 0730 and 1900 hours on Mondays to Fridays and 0730 and 1300 on Saturdays, and excluding Sundays, Christmas Day and Bank Holidays) and a blanket restriction on the noise levels set on the curtilage boundaries of the nearest noise sensitive properties, that the amenities of the occupiers of the nearby dwellings would be protected. The conditions as set out in the

report do not restrict the times or dates that vehicles could access the site, only control of the use of machinery within the site. It is feasible therefore that Members might consider the disturbance from vehicles accessing/departing the site without restriction to present a situation which would be unacceptable from a residential amenity perspective. However should refusal of planning permission be given for this reason Members are advised that this would be contrary the professional judgement of the Council's own Public Health officers.

3.2.3 Members would also need to be clear that refusal for this reason would relate only to the application site and would not have any bearing on the operations carried out on the adjacent timber frame manufacturing site. Members would need to be satisfied that the impact from the proposed operations relating to the groundworks site alone would be harmful to the extent, even with the conditions proposed, that they would result in an unacceptable impact on residential amenity. Having regard for the professional advice received and all other material planning considerations, officers do not consider this to be the case.

3.2.4 In relation to costs applications, the Planning Practice Guidance states that Local Planning Authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal. The following are selected examples given in the Guidance:

- Preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations;
- Failure to produce evidence to substantiate each reason for refusal on appeal;
- Vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis;
- Refusing planning permission on a planning ground capable of being dealt with by conditions risks an award of costs, where it is concluded that suitable conditions would enable the proposed development to go ahead;
- Imposing a condition that is not necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects, and thus does not comply with the guidance in the National Planning Policy Framework on planning conditions and obligations

**Contact for any more information**

Mr Oliver Dorrell, Planning Officer  
01884 234394

**Background Papers**

Committee report

**File Reference**

19/01430/FULL

**Circulation of the Report**

Cllr Graeme Barnell  
Members of Planning Committee

Attached - previous Committee report

## **APPLICATION NO: 19/01430/FULL**

### **MEMBER CALL-IN**

Cllr Moore - This is a wholly inappropriate, industrial development in deepest rural countryside. The immediate impact will be on local property amenity through additional activity, noise and traffic. The cumulative impact of this application is unacceptable given the nature of the proposed development in this location.

### **RECOMMENDATION**

Grant permission subject to conditions

### **PROPOSED DEVELOPMENT**

Erection of an office building and change of use of land from agriculture to groundworks depot

### **RELEVANT PLANNING HISTORY**

**12/01144/PNAG** - NOBJ date 30th August 2012  
Prior notification for the erection of an agricultural storage building

### **DEVELOPMENT PLAN POLICIES**

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

COR2 – Local distinctiveness  
COR4 – Meeting employment needs  
COR18 - Countryside

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

DM1 – Presumption in favour of sustainable development  
DM2 – High quality design  
DM7 - Pollution  
DM8 - Parking  
DM20 – Rural employment

### **CONSULTATIONS**

#### PUBLIC HEALTH

Contaminated Land: No objection to these proposals. (12.11.19).

Air Quality: No objections to the proposal. (12.11.19).

Environmental Permitting: No objections to the proposal. (12.11.19).

Drainage: No objection to these proposals. (12.11.19).

Noise & other nuisances:

I have reviewed the lighting report and I have no further objections in relation to light nuisance.

I have reviewed the information within the noise assessment and this has confirmed that the proposals are purely for the erection of an office building to serve the existing business and that no additional plant and/or machinery will be operating on the site under this application. Taking this into consideration I have no objection to the proposals as long as the suggested hours of operation are conditioned (11.03.20).

Recommending approval with conditions:

No machinery installed in the building(s) or on the site shall be operated on any Sunday, Christmas Day or Bank Holiday or other than between the hours of 0730 and 1900 hours on Mondays to Fridays and 0730 and 1300 on Saturdays.

Reason: To ensure that the proposed development does not prejudice the amenities of neighbouring properties.

Noise from operations conducted on the premises shall not exceed 50 dB <sub>(LAeq 1hr)</sub> as measured at point A, point B and point C on the boundary of the site, as shown on the attached plan, between the hours of 0730 and 1900 on Mondays to Fridays and 0730 and 1300 on Saturdays.

Reason: To ensure that the proposed development does not prejudice the amenities of the locality by reason of noise (12.03.20)

Housing Standards: No comment. (19.11.19).

Licensing: No comments. (12.11.19).

Food Hygiene: Not applicable. (12.11.19).

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 as amended 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.

You must also register with the Local Authority (Mid Devon District Council) any private water supply. Failure to do so may result in a Section 85 Notice, with which failure to comply is an offence.

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

If mains water is to be used, would have no comment. (12.11.19).

Health and Safety: No objection to this proposal. (12.11.19).

#### OAKFORD PARISH COUNCIL

There are matters which the Parish Council believes should be addressed before MDDC choose to grant consent.

Access - whilst this seems adequate for the existing development there are concerns that intensification of the use of the site should be catered for by improved access arrangements.

Noise - The PC Supports the proposal by Public Health that there should be a noise assessment & any resulting conditions should limit the use of machinery between certain hours

Lighting - the lighting should be controlled so while being appropriate for the site needs is not excessive in what is a very rural area (10.2.20)

#### HIGHWAYS

I have visited the site where the access has suitable visibility and radii and the approach roads are of sufficient width to cater for two cars passing and there are sufficient passing opportunities to cater for the number of commercial vehicles the site would attract therefore I have no objection to the proposal (12.03.20)

### **REPRESENTATIONS**

1 letter of objection received: Summary of issues raised below:

Overdevelopment of site and inappropriate use of agricultural land in a very rural area

Establishment of a heavy industrial groundworks site would be a complete desecration of this very rural area

The vehicular access is very difficult and dangerous

There have been several near missed with neighbours cars and passing traffic and three incidents of damage to adjacent property

The proposed office accommodation is an agricultural barn on agricultural land

3 letters of support received. Summary of comments received:

The increase in noise since the agricultural use ceased has been minimal  
The traffic increase has not been noticeable  
Socio-economic considerations important  
Applicants employ locally which helps local economy  
There are a number of HGV's which use the access road as a cut through from the link road to the B3227

## **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

### **SITE DESCRIPTION**

The site comprises a broadly rectangular shaped field. The site slopes north to south. The site is enclosed by hedgebanks with vegetation growing above. There is a drainage ditch running along the southern boundary. The vehicular access is located in the north-west corner.

Immediately to the west of the site is a commercial site which is currently occupied by a timber frame building company. Agricultural fields lie to the north, east and south.

In 2012 a prior notification application was submitted and approved for an agricultural storage building on the northern boundary of the site. A building has been recently constructed on this site to a different design. There is no evidence that the building has ever been occupied or used for agricultural purposes.

The building is proposed to be retained and used as offices for the groundworks business. The remainder of the site is proposed to be used as a groundworks depot

The site levels have been adjusted through the importation of hard core which has resulted in the upper part of the land being raised.

### **PRINCIPLE OF DEVELOPMENT**

Paragraph 83 of the National Planning Policy 2018 supports a prosperous rural economy through:

- a) the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings;
- b) the development and diversification of agricultural and other land-based rural businesses;
- c) sustainable rural tourism and leisure developments which respect the character of the countryside; and
- d) the retention and development of accessible local services and community facilities, such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship.

Policy DM20 of the MDDC Local Plan supports new build employment development or expansion of existing businesses in countryside locations subject to the following criteria being met:

- a) The development would not lead to an unacceptable impact on the local road network;
- b) There would not be an unacceptable adverse impact to the character and appearance of the countryside; and

c) There are insufficient suitable sites or premises in the immediate area to meet the needs of the proposal.

The site in question immediately adjoins an existing employment site known as Wedgewood Buildings. This site has a lawful mixed use under ref: 12/00146/FULL for agricultural engineering and the manufacture of timber framed buildings with ancillary timber storage and treatment. As part of the 2012 a plan identified a small parcel of land within the site as 'groundworks storage and distribution place'. The applicant states that the proposed development has grown from this operation. It is now proposed to expand the groundworks business through occupation into the adjoining site, which is the subject of this application.

The proposed development comprises the erection of an office building on the northern boundary and the formation of a large open storage depot to the south (approx. 0.4 hectares). The depot would be used to store a range of building materials and construction equipment and as well as construction site welfare structures such as cabins and bunkabins. The equipment would be stored on the site awaiting dispatch to the construction sites.

While the site is described as being an expansion of an existing groundworks business it is for all intents and purpose a new combined B1 (office) and B8 (storage and distribution) business on a greenfield site in open countryside. It is therefore necessary under policy DM20 (c) to consider whether there are suitable alternative sites within the 'immediate' area to meet the needs of the proposal. To this end applicant has provided an email from a rural property and land valuation firm stating that at the time of the application there were no suitable alternative sites near to East Anstey for the B1 and B8 uses being proposed. No alternative sites have been presented by other parties. On the basis of this and property searches performed by officers through RightMove and Prime Location for commercial sites within a three mile radius of the site officers at the time of this report (16 March 2020) officers are satisfied that there are no suitable sites or premises in the immediate area to meet the needs of the proposal; therefore criterion (c) is considered to have been met.

The applicant states that the proposed office would require two full-time staff and three part-time staff to run operations. The Council's Economic Development Officer supports the proposed development on the basis that the provision of new employment would have a modest but welcome contribution to the local rural economy.

## **HIGHWAYS**

Policy DM20 (a) states that rural employment development must demonstrate that it would not lead to an unacceptable impact on the local road network.

The access to the site would be shared with the access to the Wedgewood Buildings site to the west. The access junction with the public road is on the outside of a bend which is considered to provide adequate visibility in both directions for vehicles emerging from the site. A transport statement has been submitted which details the expected vehicle movements to and from the site including staff working in the office building and operational vehicle movements to service the groundworks depot. The highways engineer has appraised these details and carried out a site visit and has concluded that the access has suitable visibility and radii and the approach roads are of sufficient width to cater for two cars passing and there are sufficient passing opportunities to cater for the number of commercial vehicles the site would attract.

There is a residential access lane which emerges immediately adjacent to the site access on the same bend of the road and provides vehicular access to three residential properties. While there may appear some conflict with this and the site access the highways engineer

has not raised any objection to this continued arrangement to serve the proposed development.

On-site parking for five vehicles would be provided to the west of the office building on a newly formed tarmac surface. The parking levels proposed meet the threshold set out in Policy DM8 for the proposed B1 office use.

## **LANDSCAPE AND VISUAL IMPACT**

Policy COR2 states that development should preserve and enhance the distinctive qualities of Mid Devon's natural landscape, supporting opportunities identified within landscape character areas. Policy DM20 (b) permits rural employment development which would not have an unacceptable adverse impact on the character and appearance of the countryside.

The site is within Landscape Character Type 1F (Farmed lowland moorland and Culm grassland). This LCT is characterised by flat to gently rolling moorland plateau with regular field patterns and areas of unenclosed moorland heath.

The site is enclosed by hedgebanks on all sides. There are rows of trees however the eastern boundary is less dense and the vegetation is less established. There are views into the site from the surrounding farmland and glimpsed views from the certain sections of the B3227 however from these points the field is viewed in the context of the existing industrial development on the site to the west.

The building constructed on the site (and proposed to be retained) is a one and half storey with a dual pitched roof structure. It is entirely timber clad with a dark grey sheet profile metal roof. The building has a simple vernacular appearance and is sited immediately adjacent to the northern boundary. There is no external lighting proposed. Having regard for its siting, design and external appearance the building is not considered to have an adverse impact on the surrounding countryside.

The proposed use of the site as a groundworks depot introduces the possibility of the storage of a variety of items. The transport assessment lists these to include ...'building materials such as steel work, cladding, geotextiles, drainage pipes and fittings externally'...and... 'equipment not being used on work sites such as fuel bowsers (bunded), equipment trailers, excavator attachments'. An area approximately 450 square metres adjacent to the western boundary is shown on the layout plan as being dedicated for the storage of welfare equipment such as containers/caravans and bunkabins).

The nature of groundworks depots are such that the items stored on site are transitory and individually do not have a permanent landscape impact however as an overall land use there are potential negative visual implications. While it is accepted that the storage of the type of groundworks equipment listed does not general compliment a countryside location the site is outside of any recognised landscape designation and is reasonably well enclosed with limited public views in. There are gaps in the vegetation on the eastern side of the site which currently provide some distant views in however officers consider that with additional planting on the eastern boundary (secured through condition) that the proposed use and development can be accommodated without an unacceptable impact on the character and appearance of the surrounding countryside.

No lighting is proposed to serve the depot.

## **IMPACT ON RESIDENTIAL AMENITIES**

Paragraph 127 of the NPPF states that local planning authorities should make planning decisions which create places that are safe, inclusive and assessable and which promote health and well-being, with a high standard of amenity for existing or future users.

Policy DM2(e) requires new development not to have an unacceptably adverse effect on privacy and amenity of neighbouring properties and uses.

The site is in a countryside location where the expectation for tranquillity and quiet enjoyment is generally higher than in an urban area. The nearest residential property (Highfield Bungalow) is approximately 80m from the western boundary of the site. This property is located at the junction with the site access drive and therefore is sensitive to increase in traffic entering the site as well as from activity within the site itself.

There are further residential uses to the south-west in the form of a gypsy-traveller pitch approximately 150m to the south west of the site.

A noise assessment has been submitted with the application to help to understand the impact of the proposed development on the amenities currently enjoyed by the nearby occupiers of residential properties. This report has been appraised by public health who have advised that in order to protect against disturbance from external activity within the site that a condition be attached to any permission limiting the noise levels on the boundaries of the nearby noise sensitive dwellings.

A lighting report has also been produced and there are no concerns raised in respect of light nuisance.

## **ECOLOGICAL IMPACT**

The site is within a field. It does not fall within any designated site for wildlife interest and there are no statutory designated sites within 500m of the site.

The site has been appraised and an ecological report submitted. The report advises that the proposed development would not affect the favourable conservation status of any local bat population and no further survey work is deemed necessary. The hedgebanks around the site provide limited dormouse and bird breeding habitat. The hedgebanks are not proposed to be affected by the proposals.

Surface water for the building and hardstanding areas is proposed to drain into the existing ditch via a hydrobrake chamber which would be located in the south-eastern corner of the field. The site is not within a critical drainage area or within an area identified at risk of surface water flooding. Subject to details of the hydrobrake/attenuation to be submitted (secured through condition) it is considered the surface water strategy is acceptable.

Foul drainage from the office would be via an existing sewage treatment plant and soakaway.

## **SUMMARY/REASON FOR APPROVAL**

The proposed office building and groundworks depot are considered supportable in policy terms. Although a greenfield site in the countryside it immediately adjoins an existing commercial site and it has been demonstrated that there are no alternative suitable sites in more sustainable locations within the immediate area. It is considered that the proposed development can be accommodated on the site without significant harm to the character and

appearance of the locality. It is not considered that the proposed development would result in harm to privacy or amenity of the occupiers of nearby dwellings or lead to an unacceptable traffic impact on the local road network. As such the proposal is considered to comply with Policies COR2 and COR18 of the Mid Devon Core Strategy (Local Plan Part 1), DM2, DM7, DM8 and DM20 of the Local Plan Part 3 (Development Management Policies) and the advice contained in the National Planning Policy Framework.

## **CONDITIONS**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice.
3. The use of the site (excluding the building) hereby approved shall be as a groundworks depot and for no other purpose falling within B8 as defined by the Town and Country Planning (Use Classes) Order 1987 (as amended).
4. The building hereby approved shall be as B1 (Office) only.
5. No machinery on the site shall be operated on any Sunday, Christmas Day or Bank Holiday or other than between the hours of 0730 and 1900 hours on Mondays to Fridays and 0730 and 1300 on Saturdays.
6. No external lighting shall be installed on the building or within the site.
7. Within one month of the date of this permission a scheme of landscaping to include additional planting on the eastern boundary of the site shall be submitted to and approved in writing by the Local Planning Authority. The scheme as approved shall be carried out in the first planting season following approval. Any trees, shrubs or plants that die within a period of five years from the completion of each development phase, or are removed and/or become seriously damaged or diseased in that period, shall be replaced (and if necessary continue to be replaced) in the first available planting season with others of similar size and species, unless the Local Planning Authority gives prior written permission for any variation.
8. The area shown as car parking for the office on the approved block plan shall be drained and surfaced within 2 months of the date of approval of planning permission and that area shall not thereafter be used for any purpose other than the parking of vehicles for the office building hereby approved.
9. Noise from operations conducted on the site hereby approved shall not exceed 50 dB (LAeq 1hr) as measured at point A, point B and point C on the boundary of the site, as shown on approved drawing MDDC 01, between the hours of 0730 and 1900 on Mondays to Fridays and 0730 and 1300 on Saturdays.

## **REASONS FOR CONDITIONS**

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

2. For the avoidance of doubt and in the interests of proper planning.
3. To ensure that the development
4. To allow the Local Planning Authority to retain control over the future use of the building, in the interests of residential amenity, in accordance with Policy DM2 of the Local Plan Part 3 (Development Management Policies).
5. To protect the residential amenities of the occupiers of nearby properties, in accordance with Policy DM2 of the Local Plan Part 3 (Development Management Policies).
6. In the interests of visual and residential amenity, in accordance with Policies COR2 of the Mid Devon Core Strategy (Local Plan Part 1) and DM2 and DM20 of the Local Plan Part 3 (Development Management Policies)
7. To mitigate the impact of the approved development in the interests of visual amenity and in accordance with Policies DM2 and DM20 of the Local Plan Part 3 (Development Management Policies).
8. To ensure that the approved development is satisfactorily served by vehicle parking, in accordance with Policy DM8 of the Local Plan Part 3 (Development Management Policies).
9. To protect the residential amenities of the occupiers of nearby properties, in accordance with Policy DM2 of the Local Plan Part 3 (Development Management Policies).

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

Section 149 of the Equality Act 2010 places a statutory duty on public authorities in the exercise of their functions to have due regard to the need to eliminate discrimination and advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and foster good relations between different people when carrying out their activities. This is called the Public Sector Equality Duty or "PSED". No persons that could be affected by the development have been identified as sharing any protected characteristic.