

AGENDA ITEM – Planning Committee 15th July 2020

Application No. 19/01189/OUT

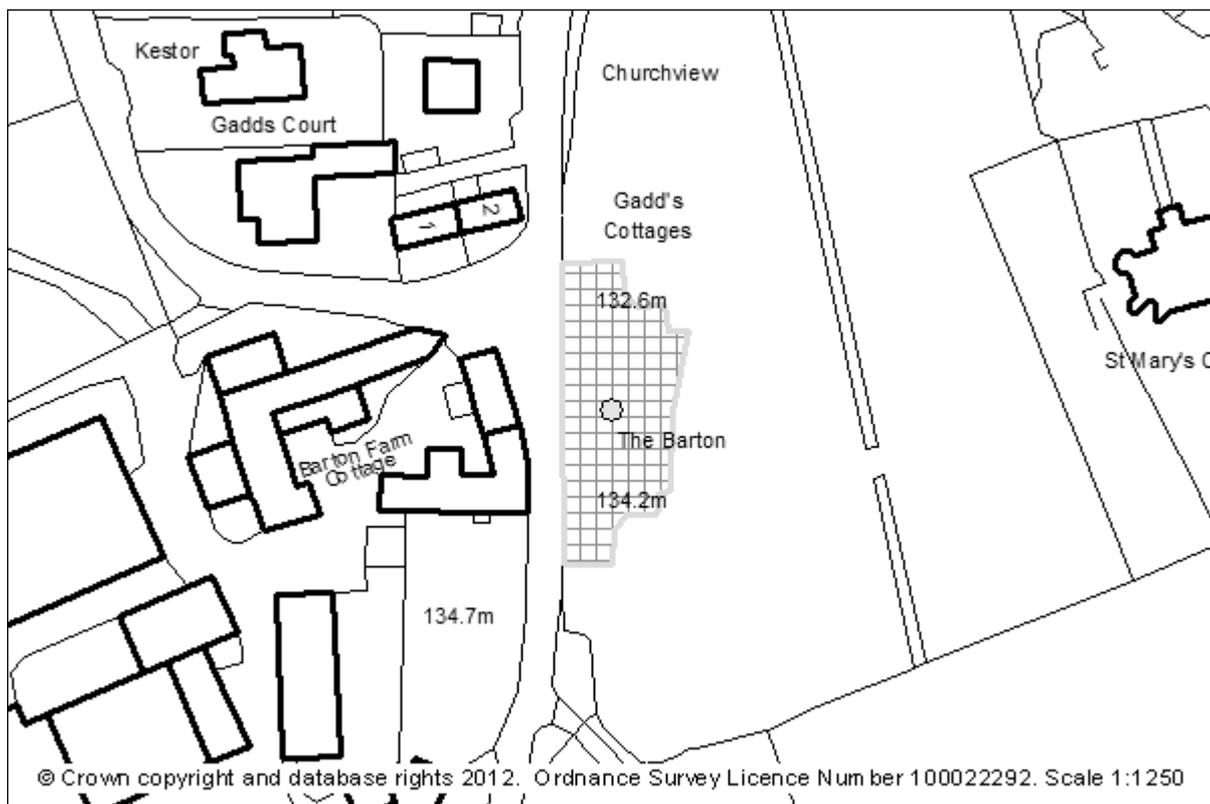
Grid Ref: 307538 : 116626

Applicant: Mr A Lehner

Location: Land at NGR 307538 116626 (North of Town Farm)
Burlescombe
Devon

Proposal: Outline for the erection of 2 dwellings (Revised Scheme)

Date Valid: 11th July 2019



REPORT OF THE HEAD OF PLANNING AND REGENERATION

19/01189/OUT Outline for the erection of 2 dwellings (Revised Scheme)

Description of Development:

Outline for the erection of 2 dwellings (Revised Scheme)

REASON FOR REPORT:

This is an implications report to consider the reasons for refusal proposed by the Planning Committee at the meeting of 17th December 2019 in light of further advice from Officers.

ORIGINAL OFFICER RECOMMENDATION(S)

Grant permission subject to conditions and section 106 agreement

Relationship to Corporate Plan:

Homes

- Facilitating the housing growth that Mid Devon needs, including contributions to Open Space within the area,
- Planning and enhancing the built environment

Financial Implications:

Any 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.

Legal Implications:

The report identifies the risks in proceeding with an appeal based on the reasons given by the Committee on 17th December 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. 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.

BACKGROUND:

At the Planning Committee held on 17th December 2019, 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,

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

- The impact of the proposal on the historic hedge/wall
- The impact of the proposal on the historic location
- The impact of the proposal on the setting of the Grade I listed church
- The lack of pavements in the area and the narrowness of the roads.

Taking the above into account, the following reasons for refusal could appear on the planning decision notice, the first two reasons have been combined as they deal ostensibly with the same issues:

1) The proposal requires the removal of 55m of hedge and stone retaining wall to facilitate the required visibility and frontage to the site. This hedge and stone retaining wall forms part of the historic settlement boundary to the original village. The loss of the wall and boundary hedge will have a severe impact on the character and setting of the oldest part of Burlescombe, and so is considered to be in conflict with policy DM27 of the Local Plan, DM25 of the Mid Devon Local Plan Review 2013 – 2033: Pre Adoption Draft and the National Planning Policy Framework 2019.

2) The proposal is within the setting of a Grade I listed Church with associated Grade 2 structures and monuments. The significance of the Church relates to views to and from the Church principally, in relation to this application, towards the east from the unnamed road to the west of the site, and from the Church and Church Yard out to the West. The LPA considers that the introduction of two dwellings in close proximity to the Grade 1 Church, would alter these views and would result in an unjustified distraction and intrusion into these important historic views and be harmful to the experience of this Grade 1 listed building contrary to the statutory duty under section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, the Policy DM27 of the Local Plan, Policy DM25 of the Mid Devon Local Review 2103 -2033:Pre Adopted Draft and the National Planning Policy Framework 2019.

3) The proposal is located in an area where there are no pavements and road widths are narrow, exacerbating highway and pedestrian safety within the area.

2. The implications of refusing the application

2.1 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 indications indicate otherwise. The development plan is therefore the primary consideration and the National Planning Policy Framework 2019

(NPPF) is a material consideration in the determination of a planning application. In this instance, significant regard must be had to the content of the NPPF in-so-far as it relates to housing delivery and the impact on designated heritage assets.

On 26th 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. This recently confirmed Local Plan Review now carries significant weight. 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. This means that the policies of the Mid Devon Local Plan Review 2013 – 2033: Pre Adoption Draft can be taken into account in determining this application. This is a significant change since the application was considered by the Planning Committee on 17th December 2019 and will be covered in more detail later in this report.

3.0 Consideration of the proposed reasons for refusal

3.1 Reason for Refusal 1

The proposal requires the removal of 55m of hedge and stone retaining wall to facilitate the required visibility and frontage to the site. This hedge and stone retaining wall forms part of the historic settlement boundary to the original village. The loss of the wall and boundary hedge will have a severe visual and material impact on the character and setting of part of the oldest part of Burlescombe, and so is considered to be in conflict with policy DM27 of the Local Plan, DM25 of the Mid Devon Local Plan Review 2013 – 20133: Pre Adopted Draft and the National Planning Policy Framework 2019.

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

3.3 The experience of moving along the lane is a bank with hedge on top to the east. The growth from the hedge covers the bank. At the south end of the site and within the bank is a natural stone wall. On the west side are dwellings and a range of farm buildings which are adjacent to the road. The house has a garden to the south. The composition is quite rural. Members may consider this to be an important rural aspect, locally significant, and distinctive of the edge of settlement position. Members may consider that the loss of the hedge, bank and part of the wall to be harmful to the character of the area and would create an openness to the lane, which will introduce a discordant element in this rural location. This position is defensible, but was not used as a reason for refusal in the previous application.

3.4 The second point to consider is whether the hedge and wall are a non-designated heritage asset, as it is not on the councils list of registered heritage assets but it does have some historic value having been in situ for many years. The impact of its removal will have a potential short term negative impact on the street scene as the rural nature of the lane will be interrupted by the presence of the new dwellings, although over time these will become part of the new rural landscape, and the historic boundary line of the village will still be in place. It is inevitable that there will be a change to the street scene although this needs to be balanced with the need to provide access to the site as part of this proposal.

3.5 The introduction of this reason for refusal could leave the Authority open to costs, particularly as it was not raised in the previous application which was refused. Even though

there will be a significant removal of hedge and wall along this part of the road, your officers are of the view that this is not a sufficient reason on its own to recommend refusal.

3.6 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;
- Not determining similar cases in a consistent manner.

3.7 The two bullet point examples given above are considered relevant should this application be refused on the loss of the hedge and wall. An award of costs is therefore considered to be a distinct possibility should an appeal and corresponding costs application be made.

4.0 Reason for refusal 2

4.1 The proposal is within the setting of a Grade I listed Church with associated Grade 2 structures and monuments. The significance of the Church relates to views to and from the Church principally, in relation to this application, towards the east from the unnamed road to the west of the site, and from the Church and Church Yard out to the West. The Council considers that the introduction of two dwelling as per the submission, would alter these views by creating two dwellings that would result in an unjustified distraction and intrusion into these important historic views from the public highway and be harmful to the local experience of this Grade 1 listed building contrary to the statutory duty under section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and contrary to Policy DM27 of the current Adopted Local Plan, Policy DM25 of the Mid Devon Local Plan review 2013- 2033:Pre Adoption Draft and the National Planning Policy Framework 2019

4.2 Members will need to consider the level of harm the proposal will have on the setting of the grade 1 listed church and its associated grade 2 structures and monuments. Paragraph 193 of the NPPF refers to any harm to the significance of a designated heritage asset (including from development within its setting) and states that this should have clear and convincing justification. Paragraph 196 of the NPPF refers to less than substantial harm to the significance of a designated heritage asset and advises that this harm should be weighed against the public benefits.

As substantial harm relates to the destruction of the asset or the complete loss of significance, this proposal will have less than substantial harm. This does not mean that it is not harmful, just that it does not meet the very high bar of substantial harm. Members do not need to consider the level of harm beyond that in any great detail, but they need to look at the balance with public benefits. The public benefit is the provision of two houses, which will make a small contribution to the Council meeting its 5 year housing land supply figures. These houses may provide a very small amount to the provision of houses in the district, but there is no reason why they cannot be provided elsewhere in the district, or perhaps the parish where there is no potential harm to heritage assets. There is no justification from the applicant with regard to public benefit. This is a requirement set out in the National Planning Policy Framework 2019 paragraph 196 which states that where development proposal will lead to less than substantial harm to the designated heritage asset, this harm should be weighed against the public benefit of the proposal. It is considered that the introduction of

two houses in this location would not outweigh the less than substantial harm in this case, as the proposal could be located elsewhere. So as long as members are satisfied that the harm identified outweighs any public benefits identified then cost implications are likely to be negligible.

5.0 Reason for refusal 3

5.1 The proposal is located in an area where there are no pavements and road widths are narrow, exacerbating highway and pedestrian safety within the area.

5.2 The footway network in Burlescombe is limited and does not start until the railway bridge which is located approximately 420m to the north east of the site. This means there are some 30 dwellings already which do not have a footway and there are no accident records to indicate it is unsafe. Members should consider carefully the support of a refusal reason based on no footways and narrow roads as that is the expected situation in the village. The Council has no evidence to show that there is an issue with highway and pedestrian safety in Burlescombe. The proposed reason for refusal could not be justified and would not be supported by the Local Highway Authority or your officers.

5.3 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:

- Failure to provide evidence to substantiate a reason for refusal
- Vague, generalised or inaccurate assertions about a proposal's impact which are not supported by any objective analysis.

5.4 The two bullet point examples given above are considered relevant should this application be refused on the basis of lack of pavements in the area which would impact on highway and pedestrian safety. An award of costs is therefore considered to be a distinct possibility should an appeal and corresponding costs application be made using the above proposed reason for refusal

6.0 Further possible reason for refusal

6.1 Members will be aware that at the time of the committee meeting in December 2019, the application site was within the settlement limit of Burlescombe as set out in the adopted development plan.

6.2 Section on 38(6) of the Planning and Compulsory Purchase Act 2004 and s 70 (2) of the Town and Country Planning Act 1990, states that where they must determine applications in accordance with the development plan, unless material considerations indicate otherwise.

Members will be aware that on 26th June 2020, Mid Devon District Council published the Inspector's Report on the Mid Devon Local Plan Review (LPR). The Inspector has concluded that the LPR 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

6.3 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 LPR in decision making. The examination process has now concluded. The Inspector has concluded that the LPR 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 LPR when making planning decisions.

6.4 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.

6.5 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.

6.6 The application site falls outside of a settlement limit in the LPR and given that considerable weight is to be given to this emerging plan, the proposal has to be considered as development in a countryside location. This will mean that the proposal for housing in this location will be contrary to Policy S14 of the Mid Devon Local Plan Review 2013 – 2033: Pre Adoption Draft.

6.7 Your officers are of the view that a refusal would be justified on the basis of the following reason for refusal:

National and local planning policy states that local planning authorities should avoid new homes in the countryside unless there are special circumstances to justify an approval. A case has been submitted for the provision of two dwellings in this rural location; however this justification is not considered to amount to special circumstances and considered to carry insufficient weight so as to override local and national policy. The proposed residential development would be in an unsustainable location and is considered to be in conflict with policies S1, and S14 of the Mid Devon Local Plan Review 2013-2033: Pre Adoption Draft and the National Planning Policy Framework 2019

6.8 Any costs implications are likely to be negligible as this is a material change in circumstances since the earlier application and since members considered the application in December 2019

7.0 Conclusion:

7.1 This report has set out proposed reasons for refusal and the implications relating to the following:

1. The impact of the proposal on the historic hedge/wall,
2. The impact of the proposal on the historic location and the impact of the proposal on the setting of the Grade I listed church.
3. The lack of pavements in the area and the narrowness of the roads.
4. Countryside location

7.2 Your Officers are of the opinion that refusal of this current planning application in relation to reason 3 is not defensible and should not be pursued. However the other three identified issues are possible refusal reasons to consider, although relying on reason 1 may open the authority to possible costs as it was not considered in the original application for refusal, and would recommend the following reasons for refusal.

- 1) **The proposal is within the setting of a Grade I listed Church of St. Mary. The significance of the Church relates to views to and from the Church principally, in relation to this application, towards the east from the unnamed road to the west of the site, and from the Church and Church Yard out to the West. The Council considers that the introduction of two dwelling as per the submission, would alter these views and would result in an unjustified distraction and intrusion into these important historic views and be harmful to the experience of this nationally important listed building of the highest grade conflicting with the statutory duty under section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and Policy DM27 of the current Adopted Local Plan and Policy DM25 of Mid Devon Local Plan Review 2013-2033: Pre Adoption Draft and the National Planning Policy Framework 2019**

- 2) **National and local planning policy states that local planning authorities should avoid new homes in the countryside unless there are special circumstances to justify an approval. A case has been submitted for the provision of two dwellings in this rural location; however this justification is not considered to amount to special circumstances and considered to carry insufficient weight so as to override local and national policy. The proposed residential development would be in an unsustainable location and is considered to be in conflict with policies S1, and S14 of the Mid Devon Local Plan Review 2013-2033: Pre Adoption Draft and the National Planning Policy Framework 2019**

Contact for any more information

Mr Daniel Rance, Principal Planning Officer
01884 234929

Background Papers

Committee report

File Reference

19/01189/OUT

Circulation of the Report

Cllr Graeme Barnell
Members of Planning Committee

[Attach previous Committee report](#)

APPLICATION NO: 19/01189/OUT

RECOMMENDATION

Grant permission subject to conditions

PROPOSED DEVELOPMENT

Outline for the erection of 2 dwellings (Revised Scheme)

APPLICANT'S SUPPORTING INFORMATION

Application Form
Site Location Plan and Site Layout
Indicative Site Sections
Wildlife Checklist
Tree Constraints Plan
Tree Schedule and Impact Assessment
Drainage Strategy
Ecological Appraisal
Heritage Impact Assessment
Archaeology Report
Design and Access Statement

RELEVANT PLANNING HISTORY

96/01294/OUT - WD date 20th November 1996
Outline for residential development; new access to be formed off Class 3 road adjoining site to the west
03/05567/PE - REC date
Proposed land uses at Burlescombe
08/00251/PE - REC date
Proposed development
10/00242/PE - CLOSED date 17th February 2010
Proposed affordable housing
18/00504/OUT - REFUSE date 28th June 2019
Outline for the erection of 2 dwellings
19/01189/OUT - PCO date
Outline for the erection of 2 dwellings (Revised Scheme)

DEVELOPMENT PLAN POLICIES

Mid Devon Core Strategy (Local Plan 1)

COR1 – Sustainable Communities
COR2 – Local Distinctiveness
COR8 – Infrastructure Provision
COR9 – Access
COR12 – Development Focus
COR17 – Villages

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

AL/IN/3 - Public Open Space

Mid Devon Local Plan Part 3 (Development Management Policies)

DM1 - Presumption in favour of sustainable development

DM2 - High Quality Design

DM3 – Sustainable design

DM8 – Parking

DM14 - Design of housing

DM15 - Dwelling Sizes

DM27 - Development affecting Heritage Assets

National Planning Policy Framework

CONSULTATIONS

HISTORIC ENGLAND - 1 August 2019

Historic England Advice

Historic England has been consulted on various iterations of this scheme to construct a number of dwellings within the field due west of the Grade I listed church of St Mary, Burlescombe. The outline application has now been resubmitted following the refusal of the previous scheme. Our initial comments on the previous application expressed concerns about the impact that a housing development in this location would have on the significance which this highly significant church derives from its setting. This was both in terms of long and short range views but also importantly in relation to the loss of the rural and tranquil agricultural character of the immediate landscape. Subsequent revisions to the scheme significantly reduced the impact of the development by scaling back the access and parking arrangements and reducing the number of dwellings to two and consequently Historic England accepted that the impact of the scheme on the setting of the church would be such that the harm would no longer justify an objection on heritage grounds.

This new application has increased the scale of the parking and turning area from that previously considered, thereby encroaching further into the field, requiring much greater levels of excavation and consequently increasing the visual impact of the development on the setting of the adjacent Grade I church. We have expressed concerns about the level of infrastructure associated with the housing previously, and whilst the current scheme is not as extensive as some of the earlier iterations, the larger parking and turning area would result in a more suburban character in this highly rural location than that of the previous design.

Central to our consultation advice is the requirement of the Planning (Listed Buildings and Conservation Areas) Act 1990 in Section 66(1) for the local authority to "have special regard to the desirability of preserving the building or its setting or any features of architectural or historic interest which it possesses". When considering the current proposals, in line with Para 189 of the National Planning Policy Framework (NPPF), the significance of the asset's setting requires consideration. Para 193 states that in considering the impact of proposed development on significance great weight should be given to the asset's conservation and that the more important the asset the greater the weight should be. Para 194 goes on to say that clear and convincing justification is needed if there is loss or harm. When considering development that has the potential to affect setting Historic England's Advice Note 3, the Setting of Heritage Assets should be referred to.

Recommendation

In determining this application you should bear in mind the statutory duty of section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess and section 38(6) of the Planning and Compulsory Purchase Act 2004 to determine planning applications in accordance with the development plan unless material considerations indicate otherwise.

Your authority should take these representations into account in determining the application. If there are any material changes to the proposals, or you would like further advice, please contact us. Please advise us of the decision in due course.

HISTORIC ENVIRONMENT TEAM - 24/07/19

I refer to your recent re-consultation on this application for the construction of two new dwellings and the receipt of the revised scheme.

The Historic Environment Team has no additional comments to make and would reiterate its previous advice, namely:

With regard to the heritage assets with archaeological interest I would reiterate the HET's previous advice that given the presence of post-medieval archaeological deposits within the application area that the impact of the proposed development upon these heritage assets should be mitigated by a programme of archaeological fieldwork to investigate and record the archaeological deposits prior to any development commencing here.

The Historic Environment Team recommends that this application should be supported by the submission of a Written Scheme of Investigation (WSI) setting out a programme of archaeological work to be undertaken in mitigation for the loss of heritage assets and archaeological interest. The WSI should be based on national standards and guidance and be approved by the Historic Environment Team.

If a Written Scheme of Investigation is not submitted prior to determination the Historic Environment Team would advise, for the above reasons and in accordance with paragraph 199 of the National Planning Policy Framework (2018) and the supporting text in paragraph 5.3 of the Mid Devon Local Plan Part 3: Development Management Policy DM27 (2013), that any consent your Authority may be minded to issue should carry the condition as worded below, based on model Condition 55 as set out in Appendix A of Circular 11/95, whereby:

'No development shall take place until the developer has secured the implementation of a programme of archaeological work in accordance with a Written Scheme of Investigation (WSI) which has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out at all times in accordance with the approved scheme, or such other details as may be subsequently agreed in writing by the Local Planning Authority.'

Reason

To ensure, in accordance with Policy DM27 and paragraph 199 of the National Planning Policy Framework, that an appropriate record is made of archaeological evidence that may be affected by the development'

This pre-commencement condition is required to ensure that the archaeological works are agreed and implemented prior to any disturbance of archaeological deposits by the commencement of preparatory and/or construction works.

I would envisage a suitable programme of work as taking the form of the archaeological excavation of the footprint of the proposed development prior to development commencing to ensure an appropriate record is made of the heritage assets prior to their destruction by the proposed development. The results of the fieldwork and any post-excavation analysis undertaken would need to be presented in an appropriately detailed and illustrated report, and the finds and archive deposited in accordance with relevant national and local guidelines.

I will be happy to discuss this further with you, the applicant or their agent. The Historic Environment Team can also provide the applicant with advice of the scope of the works required, as well as contact details for archaeological contractors who would be able to undertake this work. Provision of detailed advice to non-householder developers may incur a charge. For further information on the historic environment and planning, and our charging schedule please refer the applicant to:

<https://new.devon.gov.uk/historicenvironment/development-management/>

BURLESCOMBE PARISH COUNCIL

Burlescombe Parish Council gave consideration to all objections on the Mid Devon District Council website and those raised by residents of the parish and concluded the following:

Planning application 19/01189/OUT is practically identical to planning application 19/00504/MOUT which was rejected by Mid Devon District Council (MDDC) on grounds raised by Highways, that is, "the proposed development does not make adequate provision for the manoeuvring of vehicles within the site and would therefore be likely to result in vehicles reversing onto or manoeuvring on the highway, with consequent risk of additional danger to all users of the road contrary to the National Planning Policy Framework and policy COR9 of the Mid Devon Core Strategy (Local Plan Part 1) and policy DM2 of the Mid Devon Local Plan Part 3 (Development Management Policies)." A revised application has been amended to partially accommodate and reflect these comments. However, having revised one area they have fallen foul of other areas previously raised i.e. mass and scale.

Regarding the application's design issues, the Council maintains the view that the application's developments will still be visible from the Church of St Mary and, moving forward, form part of the Church's scene. This would cause significant and material harm to the Church and its setting as the Church is a focal point in the local area and can be seen from a great distance across the parish. It is also noted by the Council that no mention of the proposed development's style or considered materials is made raising questions about their aesthetic, with regards to the local character, and their quality. The application also appears to encompass the prospect of future development by means of making access readily available and expandable which would only amplify the aforementioned detriment that would be caused.

On the matter of privacy, it cannot go unsaid that both existing residents and future residents would suffer infringement. The developments proposed in the application contain bedrooms which are either at ground level next to the highway, meaning bathrooms would be visible from the roadside by passers-by or on the first floor, enabling developments opposite to view the bedrooms of those residents who would be opposite to them.

Further to this, any growth in population directly leads to growth in other factors, including, though not limited to, those relating to pollution. With new residents it is likely we would see an increase in complaints about noise pollution from new residents concerning pedestrians, roadside traffic, or farm vehicles in the active farms beside and directly opposite the developments.

Considering pedestrians further for a moment, it would be superfluous for the developers to pave next to the highway of the developments for at present Burlescombe has no other footpaths along the lane alluded to and primary access is proposed from behind the properties anyhow. However, what would be necessary is a sustainable drainage system. Though one has been suggested, not one specific proposal has been detailed. If this unit, for lack of better wording, would be above ground there would be a further impact on the landscape within the area of the Church, which is a Grade I (1) listed building, and its setting.

It is also accompanied by the Grade II (2) listed north gate and adjoining boundary of the Church yard's wall as well as a ten-strong list of other Grade II (2) listed headstones and tombs.

The application, with reference to the National Planning Policy Framework, Section 16, Paragraph (192), Section (C), 'The desirability of new development making a positive contribution to the local character and distinctiveness.', does not positively contribute to the village and is most obviously out of character and is liable to breach the peaceful setting of the Church and its surroundings. With further reference, specifically to the National Planning Policy Framework, Section 16, Paragraph (194), 'any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from a development within its settings) should require clear and convincing justification.', the Council fails to see the detailed criterion being met by this application. The design has not been created in keeping, within the Church setting and the applicants also have not mentioned any construction materials to be used in the creation of the new properties, which may visually impact the area even more.

Burlescombe is a village with a population of 982 residents according to a recent census. At present it bears no local amenities: no shops, no local pub, no regular bus services and even lacks footpaths in a great number of locations, including at the site of the proposed development. In fact, on the matter of Public Rights of Way, the development would, in fact, impact 'footpath 18'. We do not see this being remedied anytime soon and so too the case for this application not being one of sustainable development must be made.

Further thoughts to the recommendation of a program that investigates any archaeological remains on the site prior to any development commencing must also be seriously given consideration.

It is, therefore, the view of the Council that Mid Devon District Council should reject the Application.

PUBLIC HEALTH

Contaminated Land: No objection to this proposal. (24.7.19).

Air Quality: No objection to this proposal. (17.7.19).

Environmental Permitting: No objection to this proposal. (17.7.19).

Drainage: No objection to this proposal. (24.7.19).

Noise & other nuisances: No objection to this proposal. (24.7.19).

Housing Standards: No comment. (29.7.19).

Licensing: No comments. (17.7.19).

Food Hygiene: Not applicable. (18.7.19).

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

If mains water is to be used, would have no comment. (17.07.19).

Health and Safety: No objection to this proposal enforced by HSE. (18.7.19).

NATURAL ENGLAND - 30 July 2019

Natural England has no comments to make on this application.

Natural England has not assessed this application for impacts on protected species. Natural England has published Standing Advice which you can use to assess impacts on protected species or you may wish to consult your own ecology services for advice.

Natural England and the Forestry Commission have also published standing advice on ancient woodland and veteran trees which you can use to assess any impacts on ancient woodland.

The lack of comment from Natural England does not imply that there are no impacts on the natural environment, but only that the application is not likely to result in significant impacts on statutory designated nature conservation sites or landscapes. It is for the local planning authority to determine whether or not this application is consistent with national and local policies on the natural environment. Other bodies and individuals may be able to provide information and advice on the environmental value of this site and the impacts of the proposal to assist the decision making process. We advise LPAs to obtain specialist ecological or other environmental advice when determining the environmental impacts of development.

We recommend referring to our SSSI Impact Risk Zones (available on Magic and as a downloadable dataset) prior to consultation with Natural England. Further guidance on when to consult Natural England on planning and development proposals is available on gov.uk at <https://www.gov.uk/guidance/local-planning-authorities-get-environmental-advice>

HIGHWAY AUTHORITY - 8th August 2019

The applicant has taken on board the Highway Authority observations from the previous application and based upon Drawing number 17.103.01H being conditional of any consent the Highway Authority would make no further observations.

Recommendation:

THE HEAD OF PLANNING, TRANSPORTATION AND ENVIRONMENT, ON BEHALF OF DEVON COUNTY COUNCIL, AS LOCAL HIGHWAY AUTHORITY, RECOMMENDS THAT THE FOLLOWING CONDITIONS SHALL BE INCORPORATED IN ANY GRANT OF PERMISSION

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

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

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

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

HISTORIC ENVIRONMENT TEAM - 1 August 2019

I refer to your recent re-consultation on this application for the construction of two new dwellings and the receipt of the revised scheme.

With regard to the heritage assets with archaeological interest I would reiterate the Historic Environment Team's previous advice that given the presence of post-medieval archaeological deposits within the application area that the impact of the proposed development upon these heritage assets should be mitigated by a programme of archaeological fieldwork to investigate and record the archaeological deposits prior to any development commencing here.

The Historic Environment Team recommends that this application should be supported by the submission of a Written Scheme of Investigation (WSI) setting out a programme of archaeological work to be undertaken in mitigation for the loss of heritage assets and archaeological interest. The WSI should be based on national standards and guidance and be approved by the Historic Environment Team.

If a Written Scheme of Investigation is not submitted prior to determination the Historic Environment Team would advise, for the above reasons and in accordance with paragraph 199 of the National Planning Policy Framework (2018) and the supporting text in paragraph 5.3 of the Mid Devon Local Plan Part 3: Development Management Policy DM27 (2013), that any consent your Authority may be minded to issue should carry the condition as worded below, based on model Condition 55 as set out in Appendix A of Circular 11/95, whereby:

'No development shall take place until the developer has secured the implementation of a programme of archaeological work in accordance with a Written Scheme of Investigation (WSI) which has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out at all times in accordance with the approved scheme, or such other details as may be subsequently agreed in writing by the Local Planning Authority.

Reason

To ensure, in accordance with Policy DM27 and paragraph 199 of the National Planning Policy Framework, that an appropriate record is made of archaeological evidence that may be affected by the development'

This pre-commencement condition is required to ensure that the archaeological works are agreed and implemented prior to any disturbance of archaeological deposits by the commencement of preparatory and/or construction works.

I would envisage a suitable programme of work as taking the form of the archaeological excavation of the footprint of the proposed development prior to development commencing to ensure an appropriate record is made of the heritage assets prior to their destruction by the proposed development. The results of the fieldwork and any post-excavation analysis undertaken would need to be presented in an appropriately detailed and illustrated report, and the finds and archive deposited in accordance with relevant national and local guidelines.

I will be happy to discuss this further with you, the applicant or their agent. The Historic Environment Team can also provide the applicant with advice of the scope of the works required, as well as contact details for archaeological contractors who would be able to undertake this work. Provision of detailed advice to non-householder developers may incur a charge. For further information on the historic environment and planning, and our charging

schedule please refer the applicant to:

<https://new.devon.gov.uk/historicenvironment/development-management/>

ENVIRONMENT AGENCY - 12 August 2019

Natural England has no comments to make on this proposal.

Natural England has not assessed this application for impacts on protected species. Natural England has published Standing Advice which you can use to assess impacts on protected species or you may wish to consult your own ecology services for advice.

Natural England and the Forestry Commission have also published standing advice on ancient woodland and veteran trees which you can use to assess any impacts on ancient woodland.

The lack of comment from Natural England does not imply that there are no impacts on the natural environment, but only that the application is not likely to result in significant impacts on statutory designated nature conservation sites or landscapes. It is for the local planning authority to determine whether or not this application is consistent with national and local policies on the natural environment. Other bodies and individuals may be able to provide information and advice on the environmental value of this site and the impacts of the proposal to assist the decision making process. We advise LPAs to obtain specialist ecological or other environmental advice when determining the environmental impacts of development.

We recommend referring to our SSSI Impact Risk Zones (available on Magic and as a downloadable dataset) prior to consultation with Natural England. Further guidance on when to consult Natural England on planning and development proposals is available on gov.uk at <https://www.gov.uk/guidance/local-planning-authorities-get-environmental-advice>

REPRESENTATIONS

22 Letters of objection received throughout the planning process, for the current scheme for two dwellings. In addition 26 letters of objection were received for the previous refused application 18/00504/MOUT these objections received are as summarised as follows:

- The proposed development would impact on views to and from the ancient grade I listed church which would be spoilt forever.
- It would compromise the setting of a historic and ancient monument and potential archaeological site.
- The Church of St. Mary, Burlescombe was undoubtedly built on a hill to make a statement. It is now floodlit at night to make it a beautiful landmark sight at night from miles around.
- NPPF – 16 – 192 states that *a new development should make a positive contribution to local character and distinctiveness*. The proposed development of two houses would not do that and more-over be very visible from the village and obstruct this view.
- The development would be out of character for the area and would have an adverse effect on the visual amenity of the area as a whole. No other property in the locality shares the features of the proposed development and the majority of the existing properties are more than 100 years old representing the vernacular for the area.
- The development would increase traffic to this area making it more dangerous to walk on this already busy narrow road.
- The road is already congested with cars, there are no pavements and it is dangerous for people including children walking.

- The farm house and surrounding buildings/houses would be overlooked by the development.
- The community does not wish for this development only the applicant.
- This land should be preserved as a green space and never built on.
- The development would impact on wildlife such as bats.
- There are many plots within the village which are owned by the same applicant that are much more suitable and would come up against much less objection.
- A scheme of 2 properties would still impact on views to the Grade I Listed Church.
- The access to both properties is dangerous. Both come on to a small road which is used as a rat run and used by very large agricultural machinery.
- Plot 1, the access looks very tight and if a large car/van was to wish to park in this space, coming from the property onto this small road may be a massive issue.
- The access to plot 2 is directly opposite an already dangerous turning as visibility is not great.
- The houses will overlook an existing property and in turn the occupiers of the proposed houses would be overlooked.
- Whilst the development has reduced in number, if approved, further development would follow.
- Houses being dug into the landscape, being upside down houses in design and right on the road would encourage antisocial behaviour.
- This beautiful village has no public house, shop or substantial bus service. As one of the younger people to live in the village, this is difficult. People moving here may find this hard, therefore the houses may be difficult to sell and remain empty.
- Concern that these houses would be bought as holiday/short term lets even though the site is within the Uffculme School catchment area.
- Further houses are needed to keep the school and surrounding businesses in trade but not on this site and with a development happening for 6 affordable houses further down the hill, does this village really warrant 10 more new houses at this time?
- The proposed development for two dwellings would result in a significant amount of hedgerow to the detriment of the amenity of the area.
- The recently planted leylandii hedge planted across "the churchyard field" must be removed as it is now totally out of control and is obscuring the views across the valley. It is an absolute eyesore. It does not specify within the application, what is going to happen to the hedge or who is responsible for the maintenance of the hedge or proposed community orchard.
- The drainage of the site would be seriously hazardous to the T Junction, in freezing weather conditions.
- The development is 150m above sea level +/- 10m and as such is colder than the surrounding area. This has meant that on many occasions there is freezing conditions on the lane when Tiverton and Wellington positive temperatures.
- The development would create a Dam for all rain waters from the field behind the 2 homes and drives which have retaining walls. Due to the contour of the roads and landscape the flood waters will go down the centre of the t junction, creating an extreme hazard if it was to freeze.
- The highways agency or Mid-Devon do not grit the lane or the junction.
- The developers have still described the single track lane as the main road, when it is not the main road through Burlescombe, it is still a 7,5 tonne restricted road.
- The removal of the leylandii hedge is being used as a bargaining tool to obtain development.

Most recent comments associated with this application are summarised below:

- The application has already been refused why the applicant doesn't appeal it.

- The application is still in the same location and impacting on the church.
- How can you and the MDDC allow this to happen there are narrow roads?
- Objections set out in previous application are still valid.
- There will be harm to the grade 1 Church and the land is integral to the setting of the church
- The houses will be visible from the church
- It will introduce an inappropriate urban look to one of the oldest parts of Burlescombe
- The visibility splays required by Highways will also create an inappropriate urban appearance.
- The location of the housing, close to the edge of a lane used by private and large farm vehicles and proximity to a T junction creates road safety issues.
- Most local authorities aim for the conservation of foliage and animal habitat, yet the entrances and visibility splays for these 2 dwellings will lead to the loss of 137 metres plus of native hedging.
- There is no intrinsic change to the previous.
- The road to the front is not a main highway but a country lane.
- Drainage is a concern especially in the winter months.
- Old documents re-submitted.
- Evidence suggests that there are bats within the vicinity.
- No advantages to the village from the building of these houses.
- The visibility splays required by Highways, the significant loss of native hedging, and new large modern housing with a high level of parking infrastructure means that Old Road would take on an inappropriate - and undesirable – urban appearance
- There is no housing need.

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The main issues in the determination of this application are:

The main issues with this application relate to:

1. Previous Planning Application reason for refusal
2. Whether the application site is an appropriate location for new housing having regard to the provisions of the development plan;
3. Whether development on the site has an impact on the character and appearance of the area including the Grade I Listed Church on the hill to the east;
4. Highways matters of access and park and highway safety;
5. The living conditions of neighbouring properties and the living conditions of the occupants of the proposed dwellings;
6. S106 obligations; and
7. Other issues including previous refused application on site.

1. Previous Planning Application reason for refusal

Application 18/00504/OUT was refused on one reason

The proposed development does not make adequate provision for the manoeuvring of vehicles within the site and would therefore be likely to result in vehicles reversing onto or manoeuvring on the highway, with consequent risk of additional danger to all users of the road contrary to the National Planning Policy Framework and policy COR9 of the Mid Devon Core Strategy (Local Plan Part 1) and policy DM2 of the Mid Devon Local Plan Part 3 (Development Management Policies).

As this proposal relates to a revised proposal to overcome this reason for refusal the Authority are unable to consider any other aspects of the development that was previously considered under 18/00504/OUT, unless the changes made to overcome this reason for

refusal cause additional harm to the surrounding area and the heritage assets.

The proposed alteration to the parking and turning area is considered to overcome the previous concerns and so there are no other issues which have not been previously considered within 18/00504/OUT to recommend refusal of the proposal.

2. Appropriate location/policy considerations

The Development Plan in force consists of the Mid Devon Core Strategy 2007, adopted July 2007, the Allocations and Infrastructure DPD (2010) and LPP3 (DM policies). The site does not sit within a Neighbourhood Plan area. The NPPF requires that applications be determined in accordance with the development plan, unless material considerations indicate otherwise. The NPPF is a material consideration. In relation to this current proposal, significant weight is given to the relevant policies produced by Mid Devon District Council.

This is a proposal for the erection of two new dwellings within the settlement boundary of Burlescombe, a recognised settlement in the Mid Devon Local Development Framework. Policy COR 17 of the Core Strategy allows for minor residential development within the defined settlement boundary for Burlescombe.

COR17 - Villages states:

'The following rural settlements with some local facilities and employment and access to public transport will be designated as villages: Bow, Bradninch, Burlescombe, Chawleigh, Cheriton Bishop, Cheriton Fitzpaine, Copplestone, Culmstock, Halberton, Hemyock, Kentisbeare, Lapford, Morchard Bishop, Newton St Cyres, Sampford Peverell, Sandford, Silverton, Thorverton, Uffculme, Willand and Yeoford.

Development will be limited to minor proposals within their defined settlement limits and to allocations for:

- a. affordable housing meeting a local need;
- b. small scale employment and tourism;
- c. services and facilities serving the locality; and
- d. other very limited development which enhances community vitality or meets a local social or economic need.'

Following on from the Written Ministerial Statement (2014), it is the case that a Local Planning Authority cannot request affordable housing on residential developments of below 5 dwellings and only a financial contribution towards the provision of affordable housing off-site would be required for residential developments of between 6 and 10 dwellings. The Written Statement was found to have more weight than Core Strategy Policies and as such the principle of a residential development for open market dwellings on a site such as this within a settlement limit would be supportable under COR17.

However, whilst the above policy would be supportive of residential development, this is not to say all residential development on a site within a settlement limit would be acceptable as S.38[6] of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the Development Plan, unless material considerations indicate otherwise. The National Planning Policy Framework (the Framework), published by the Government and revised in 2019, is noted as one such material consideration.

Of interest is the matter that there is the proposal within the emerging Local Plan for the deletion of the Settlement Limit, therefore as a result there would be no policy which would directly allow for small scale open market residential development on this field. The emerging local plan policy S14 – Countryside states that:

'Development outside the settlements defined by Policies S10-S13 will preserve and where possible enhance the character, appearance and biodiversity of the countryside while

promoting sustainable diversification of the rural economy. Detailed development management policies will permit agricultural and other appropriate rural uses, subject to the following criteria:

- a) Affordable and low cost housing to meet local needs, residential conversion of appropriate existing buildings, replacement dwellings, housing essential to accommodate a rural worker and accommodation ancillary to a dwelling;
- b) Appropriately scaled retail, employment, farm diversification, tourism and leisure related development (including appropriate conversion of existing buildings);
- c) Appropriately scaled and designed extensions and other physical alterations to existing buildings;
- d) Agricultural and equestrian development;
- e) Community facilities, such as educational facilities, buildings associated with public open space, transportation and infrastructure proposals (including green infrastructure); and
- f) Renewable energy and telecommunications.'

However whilst the above emerging policy outlines the direction of travel, the emerging local plan is still to be adopted and therefore has little weight attributed to it.

3. Whether development on the site has an impact on the character and appearance of the area including the Grade I Listed Church on the hill to the east.

A key issue of any proposal in this location relates to the potential impact on the setting of the Grade I Listed Church and the general character of the area. The application site is a field set lower down than the church with a high leylandii hedge along the boundary separating another field which adjoins the grounds of the church. The proposed dwellings would be two storey fronting the highway which would mean building into the existing bank removing a long stretch of hedgerow and stone wall banking.

3.1 Impact on Church

As can be seen from the consultee responses received from both the Council's Conservation Officer and Historic England, concerns were raised to the development of dwellings within the field identifying the harm to the setting of the listed St Mary's Church. The NPPF outlines that 'When considering the impact of the proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation'. There is also the duty of a Local Planning Authority under Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 which states that 'In considering whether to grant planning permission or permission in principle for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.'

Historic England have stated that this new application has increased the scale of the parking and turning area from that previously considered, thereby encroaching further into the field, requiring much greater levels of excavation and consequently increasing the visual impact of the development on the setting of the adjacent Grade I church. However following negotiation with the applicant this aspect of the application has been modified to reduce the impact of the proposed turning area by incorporation a roof over the turning area and introducing a grassed area over this to lessen the impact. We have expressed concerns about the level of infrastructure associated with the housing previously, and whilst the current scheme is not as extensive as some of the earlier iterations, the larger parking and turning area would result in a more suburban character in this highly rural location than that of the previous design.'

The Authorities Conservation officer has also re-assessed the application and has stated Applications for consent that affects a heritage asset must be able to justify their proposals. The NPPF says that the LPA should require an applicant to describe the significance of any

heritage asset affected including any contribution made to their setting. This should be sufficient to understand the potential impact of the proposal on its significance. As a minimum the Heritage Environment Record should have been consulted and the building assessed using appropriate expertise where necessary. When considering the impact of development, great weight should be given to the asset's conservation. Any harm or loss should require clear and convincing justification from the applicant. Any harm should be judged against the public benefit, including securing the optimum viable use. (The optimum use is the one that causes the least harm to the significance of the asset).

This approach is reinforced by policy DM27 LP3 and it requires development proposals likely to affect heritage assets and their settings, including new buildings, alterations, extensions, changes of use and demolitions to consider their significance, character, setting and local distinctiveness, and the opportunities to enhance them. It also goes on to state that where a development proposal would lead to less than substantial harm, that harm will be weighed against any public benefit.

The conservation Officers comments are set out below

I note in my comments from 19th of August I stated

This is a revised application after a previous refusal. It is noted that the Heritage Impact Assessment has not been updated. The Design and Access statement has been updated but does not consider the setting of the Church. I note the comments of Historic England and agree them.

The parking area is on the main view up the hill towards the Church tower. The extended parking area dug into rising ground with retaining wall would draw the eye and compete with the vista of the Church formed from opening up the hedge. Whilst the last scheme was acceptable in my view, this additional depth and height of the rear wall is harmful and is not acceptable

Whilst we have amended plans we do not have any amendments to the Design and Access Statement, and to that extent they do not put forward their case with regard to the setting of the church.

I remain of the view that this proposal is mainly without issues. However I do feel it is balanced with regard to the experience of the Church, principally looking up the road towards the Church tower opposite the north end of the proposal. This amendment looks to reduce the impact of the depth and height of the parking area, but this would rely on that area being unlit, uncluttered and plain and with no domestic paraphernalia on the raised land above. If we are of the view that this can be successfully conditioned, along with control of the materials/construction as raised by Historic England, then, on balance, I would not object with regard to the experience of the view from this viewpoint.

3.2 Impact on area and street scene

Another aspect has been raised with regard to the loss of the hedge and stone retaining wall which runs along the road side of the proposed development site.

The proposal requires the removal of approximately 55m of hedge and wall to facilitate the required visibility and frontage to the site. The road is an unclassified rural road and its appearance at present shows this clearly, although slightly overgrown the hedge and wall provide a suitable boundary to the existing field. This boundary forms part of the historic settlement boundary in addition the whereabouts of the Domesday settlement cannot be identified with any certainty but the open area next to church is likely to have formed an

original focus. Manor was held by wulfgeat before 1066 and shown in the DCC HER's mapping system. It is evident that the fields and associated area has some significance with regard to the development of Burlescombe, and the undertaking of any development in this area must be undertaken carefully. The loss of the wall and hedge is likely to severely impact on the character and setting of the oldest part of Burlescombe, and to lose the continuity of this ancient wall and hedge is considered in this instance not to be acceptable.

Therefore the development would be considered not to comply with policy DM27 and guidance within the NPPF. It is however important to note that this is a revised scheme where this element was not a reason for refusal previously so unfortunately we are unable to introduce such a reason for refusal now.

4. Highways matters of access and park and highway safety;

The proposed development is for two dwellings with access and parking to be located to either side of the dwellings. Policy DM8 of the Local Plan Part 3 (DMP) sets out that new development should provide a minimum of 1.7 car parking spaces per dwelling but allows for some variation on a case by case basis dependent upon the accessibility of the site and the type, mix and use of a site. The proposed development would meet the parking requirements.

However, the Local Highway Authority has noted that 'the applicant has indicated visibility splays measured to the centre of the carriageway. National Guidance is that visibility is measured to the nearside carriageway edge. However, the splays indicated are 43m which equates to 30mph. whilst this is the speed limit the actual speed of traffic is nearer to 20mph; drivers are either joining the road from the main Burlescombe road or approaching the junction with it, thus keeping speeds down. The indicated visibility available to the nearside edge is therefore acceptable in this instance.

Policy COR9 of the Core Strategy sets out the requirement to manage travel demand, reduce air pollution and enhance road safety through the management of car parking and traffic, whereas policy DM2 of the Development Management Policies identifies the requirement for the creation of safe and accessible places that also encourage sustainable modes of travel such as walking and cycling. Therefore the concerns of the Local Highway Authority mean that the development is contrary to these two policies.

As such the development is considered to be in conformity to policies COR9, DM8 and the National Planning Policy Framework.

5. The living conditions of neighbouring properties and the living conditions of the occupants of the proposed dwellings;

The NPPF states that planning policies and decisions should ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development.

In terms of the design of the development, DM14 (Design of housing) and DM2 (High Quality Design) are applicable. Policy DM14 outlines that 'New housing development should be designed to deliver:

- a) High quality local places taking into account physical context, local character, density and land use mix;
- b) Adequate levels of daylight, sunlight and privacy to private amenity spaces and principal windows;
- c) Suitably sized rooms and overall floorspace which allows for adequate storage and movement within the building together with external space for recycling, refuse and cycle storage;
- d) Adaptable dwellings that can accommodate a range of occupiers and their changing

needs over time which will include the provision of a stairway suitable for stairlift installation or space for the provision of a lift in homes with more than one storey;

- e) Private amenity space that reflects the size, location, floorspace and orientation of the property;
- f) Sustainable forms of development that maximise the natural benefits of the site through design, materials, technology and orientation;
- g) On sites of 10 houses or more the provision of 20% of dwellings built to the lifetime homes standard;
- h) Car parking in accordance with Policy DM8.

Policy DM2 of the Development Management Policies relates to high quality design for new development and states the following:

‘Designs of new development must be of high quality, based upon and demonstrating the following principles:

- a) Clear understanding of the characteristics of the site, its wider context and the surrounding area;
- b) Efficient and effective use of the site, having regard to criterion (a);
- c) Positive contribution to local character including any heritage or biodiversity assets and the setting of heritage assets;
- d) Creation of safe and accessible places that also encourage sustainable modes of travel such as walking and cycling;
- e) Visually attractive places that are well integrated with surrounding buildings, streets and landscapes, and do not have an unacceptably adverse effect on the privacy and amenity of the proposed or neighbouring properties and uses, taking account of:
 - i) Architecture
 - ii) Siting, layout, scale and massing
 - iii) Orientation and fenestration
 - iv) Materials, landscaping and green infrastructure
- f) Appropriate drainage including sustainable drainage systems (SUDS) and connection of foul drainage to a mains sewer where available.’

Therefore as outlined above, adopted policy requires new development should respect the privacy and amenity of neighbouring residents and also the occupiers of the development. Concerns have been raised from objectors that there will be overlooking from the new dwellings to the farmhouse and vice versa with the development fronting the highway allowing pedestrians to view into the properties.

It is noted that this is an outline planning application with appearance of the development being a reserved matter for later consideration. Given the site layout proposed it is considered that subject to final positioning of windows, a scheme could be submitted whereby overlooking would not occur. Adequate amenity area and parking would be provided for the occupiers of the development and therefore it is considered that the development could comply with policies DM2 and DM14 subject to approval of the final details.

6. S106 Obligations

Policy AL/IN/3 of the Allocations and Infrastructure Development Plan Document (AIDPD) seeks to provide at least 60 square metres of public open space for each new market dwelling. Where it would be more appropriate the policy provides a mechanism in accordance with the adopted Supplementary Planning Document (SPD) on this matter, for off-site financial contributions toward the provision and funding of public open space to be made. The applicant is intending to provide a unilateral undertaking and payment of the appropriate sums to the Authority.

7. Other issues raised In terms of ecology, an ecological appraisal was included with the application documents. The site is currently a field and recommendations to avoid harm to protected species (including badgers, great crested newts, dormice, reptiles and nesting birds) are included within the report, in addition to hedgerow protection measures.

Recommendations for a sensitive lighting plan to avoid disturbance to bat species has also been provided.

It has been concluded that there are opportunities to enhance the site for biodiversity and that these include reinforcement planting of existing hedgerows and provision of bat tubes and bird boxes within new dwellings. Suggested measures to avoid, mitigate and compensate potential impacts on habitats and species (and enhance the site for biodiversity in line with the National Planning Policy Framework) are included within a Conservation Action Statement.

SUMMARY

The application site is located within the current settlement limits of Burlescombe where small scale residential development would be acceptable in principle subject to being designed to be in accordance with adopted policy and with this being an outline planning application with matters of access, layout, landscaping and scale included for consideration, the proposed is on balance considered to be compliant with the Local Planning Policy COR2 of the Mid Devon Core Strategy (Local Plan Part 1) and Policy DM27 of the Local Plan Part 3 (Development Management Policies) and guidance within the National Planning Policy Framework.

CONDITIONS

1. No development shall begin until detailed drawings to an appropriate scale of the access, layout, scale and appearance of the building(s), the means of access thereto and the landscaping of the site (hereinafter called the Reserved Matters) have been submitted to and approved in writing by the Local Planning Authority.
2. Application(s) for approval of all the Reserved Matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.
3. The development hereby permitted shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of approval of the last of the Reserved Matters which have been approved, whichever is the later.
4. The detailed drawings required to be submitted by Condition CO1 shall include the following additional information: boundary treatments, hard and soft landscaping, existing site levels, proposed site levels, finished floor levels, materials, and surface water and foul drainage.
5. No development shall take place until the developer has secured the implementation of a programme of archaeological work in accordance with a Written Scheme of Investigation (WSI) which has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out at all times in accordance with the approved scheme, or such other details as may be subsequently agreed in writing by the Local Planning Authority.
6. . No development shall begin until a Method of Construction Statement to include details of:
 - (a) parking for vehicles of site personnel, operatives and visitors
 - (b) loading and unloading of plant and materials
 - (c) storage of plant and materials

shall have been submitted to, and agreed in writing by, the Local Planning Authority. Only the approved details shall be implemented during the construction period.

7. Prior to their use on site, samples of the materials to be used for all the external surfaces of the building and any retaining walls have been submitted to and approved in writing by the Local Planning Authority.
8. As part of the landscaping reserved matters, detailed drawings shall show which existing trees and hedgerows are to be retained on the site as part of the development.
9. No part of the development hereby approved shall be brought into its intended use until the access driveway and parking spaces have been provided and maintained in accordance with details that shall have been submitted to, and approved in writing by, the Local Planning Authority and retained for that purpose at all times.
10. Construction works shall not take places outside 0800 hours to 1800 hours Mondays to Fridays and 0800 to 1200 hours (midday) on Saturdays and at no time on Sundays and Bank Holidays.
11. All telephone, electricity and mains gas services to the building shall be placed underground.
12. Prior to the first occupation of the dwelling details of refuse and recycling storage for the dwellings shall be submitted to and approved in writing by the Local Planning Authority hereby approved. Such approved refuse and recycling storage shall be retained thereafter.
13. Notwithstanding the provisions of Article 3 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) no development of the types referred to in Classes A, B, C, D, E, F, G of Part 1, or Classes A, B, C of Part 2 of Schedule 2, relating to windows, doors, structures, means of enclosure , shall be undertaken within the application site without the Local Planning Authority first granting planning permission.
14. The roofed over vehicle turning area associated with this application shall not be used for parking of vehicles, storage of any items and is not to have any lighting which will be visible from outside the site.

REASONS

1. The application was submitted as an outline application in accordance with the provisions of Articles 4 & 5 of The Town and Country Planning (Development Management Procedure) Order 2010.
2. In accordance with the provisions of Section 92(2) of the Town and Country Planning Act 1990 as amended by Section 51 Planning and Compulsory Purchase Act 2004.
3. In accordance with the provisions of Section 92(2) of the Town and Country Planning Act 1990 as amended by Section 51 Planning and Compulsory Purchase Act 2004.

4. To enable the Local Planning Authority to consider the impact of the development particularly on the occupiers of the neighbouring properties in accordance with Policy DM2 of the adopted Mid Devon Local Plan Part 3 (Development Management Policies).
5. To ensure, in accordance with Policy DM27 and paragraph 199 of the National Planning Policy Framework, that an appropriate record is made of archaeological evidence that may be affected by the development.
6. To ensure the safety on the highway and to protect the privacy and amenities of neighbouring occupiers accordance with Policies DM2 and DM14 of the Local Plan Part 3 (Development Management Policies).
7. To ensure the use of materials appropriate to the development in order to safeguard the character and appearance of the conservation area in accordance with Mid Devon Core Strategy (Local Plan 1) Policy COR2 and Local Plan Part 3: (Development Management Policies) Policies DM2 and DM15.
8. In the interest of the visual amenity of the area in accordance with Policy DM2 of the Local Plan Part 3: (Development Management Policies).
9. To ensure that adequate facilities are available for the traffic attracted to the site.
10. To protect the privacy and amenities of neighbouring occupiers accordance with Policies DM2 and DM14 of the Local Plan Part 3 (Development Management Policies).
11. In order to safeguard visual amenity of area.
12. To ensure adequate refuse and recycling facilities are provided for the dwelling in accordance with Policy DM14 of the Local Plan Part 3 (Development Management Policies).
13. To safeguard the visual amenities of the area character and appearance of the listed building residential amenity of neighbouring residents in accordance with Mid Devon Core Strategy (Local Plan 1) Policy COR2 and Local Plan Part 3: (Development Management Policies) Policy DM2.
14. Reason to ensure there is no impacts from the proposal on the setting of the grade 1 church in accordance with DM27 of the Local Plan Part 3 (Development Management Policies).

REASON FOR APPROVAL OF PERMISSION

This application seeks to ascertain whether the siting of residential development on this site is acceptable. The proposal is on balance acceptable in principle as the site is considered to be a sustainable location and will be within the present defined settlement limit of Burlescombe, where minor residential development is supported in accordance with policy. Whilst the site sits within a relatively close residential context, it is considered likely that two dwellings could be accommodated on the site at a density compatible with its surroundings.

Furthermore the reserved matters application will ensure that the proposal would not result in harm to the character or appearance of the area, the amenity of neighbouring properties or any adverse impacts to the local highway network. The proposal is therefore in accordance with Policies COR1, and COR2 of the Mid Devon Core Strategy (Local Plan Part 1), together with Policy AL/IN/3 of the Allocations and Infrastructure Development Plan Document (Local Plan Part 2) and Policies DM1 and 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.

