

## PLANNING COMMITTEE AGENDA - 9th September 2020

### Applications of a non-delegated nature

<u>Item No.</u>	<u>Description</u>
01.	20/00838/HOUSE - Erection of domestic outbuilding, replacement fence and retention of tree house at 6 Poppy Close, Willand, Cullompton. <b>RECOMMENDATION</b> Grant permission subject to conditions.
02.	20/01024/LBC - Listed Building Consent for installation of 1 replacement window at The Old Carriage House, St Andrew Street North, Tiverton. <b>RECOMMENDATION</b> Grant Listed Building Consent subject to conditions.
03.	20/00622/OUT - Outline for the erection of 1 dwelling at 12 Kabale Close, Tiverton, Devon. <b>RECOMMENDATION</b> Grant permission subject to conditions.
04.	19/01839/MOUT - Outline for the erection of up to 105 dwellings, associated landscaping, public open space and allotments together with vehicle and pedestrian access from Siskin Chase and pedestrian access from Colebrooke Lane at Land at NGR 301216 106714 , (West Of Siskin Chase), Colebrooke Lane. <b>RECOMMENDATION</b> Grant permission subject to conditions and the signing of a S106 agreement to secure.
05.	20/00176/FULL - Erection of dwelling following demolition of barn at Land & Buildings at NGR 301235 112854, (Orchard House), High Street. <b>RECOMMENDATION</b> Grant permission subject to conditions.
06.	20/00879/HOUSE - Retention of decking and gazebo in rear garden and raised fence at 31 Banksia Close, Tiverton, Devon. <b>RECOMMENDATION</b> Grant permission subject to conditions.
07.	20/00594/MFUL - Erection of 5 poultry units; biomass boiler unit; attenuation pond; access track; hardstanding; landscaping and associated infrastructure at Land at NGR 285042 114106 (Edgeworthy Farm), Nomansland, Devon. <b>RECOMMENDATION</b> Grant permission subject to conditions.

Application No. 20/00838/HOUSE

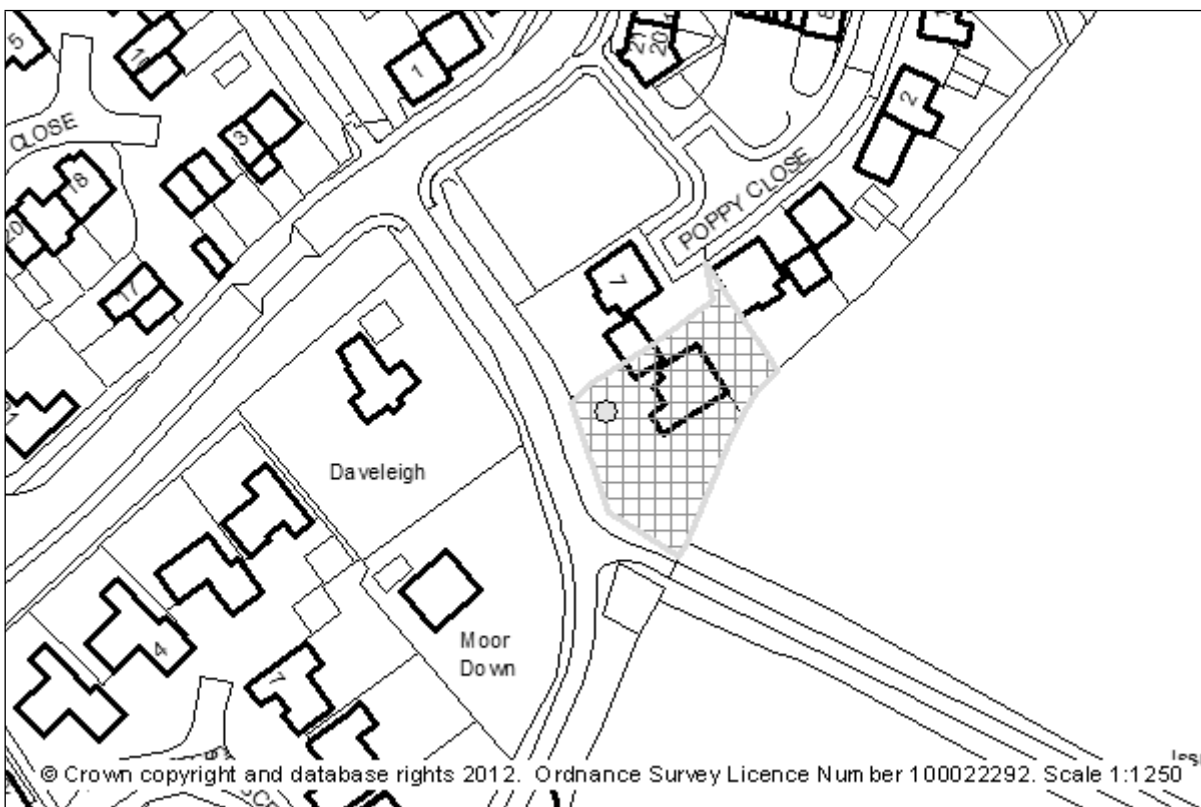
Grid Ref: 304098 : 110941

Applicant: Mr & Mrs R Fish

Location: 6 Poppy Close  
Willand  
Cullompton  
Devon

Proposal: Erection of domestic outbuilding, replacement fence and retention of tree house

Date Valid: 9th June 2020



## **APPLICATION NO: 20/00838/HOUSE**

### **REASON FOR CALL IN**

The applicants work for Mid Devon District Council

### **RECOMMENDATION**

Grant permission subject to conditions

### **PROPOSED DEVELOPMENT**

The proposed development is for the erection of a domestic outbuilding, replacement fence and retention of tree house at 6 Poppy Close, Willand.

The outbuilding will be sited in the western corner of the rear garden area and measures approximately 8 metres by 5.5 metres including the veranda. The overall ridge height is approximately 3 metres to its highest point and the structure is proposed for domestic ancillary purposes.

Works are also proposed to the fence to the rear of the proposed outbuilding. The fence height will be increased to 2.3 metres which is an increase of 400mm at its greatest point.

In addition to the above, the application includes the retention of a tree house constructed around one of the garden's oak trees. Within the planning statement, the applicant's state that this was built around the tree and as such the dimensions could not be finalised until the build was complete. This is why this part of the application is retrospective. The tree is subject to protection by a group Tree Preservation Order (TPO) from 2002. The tree house itself has a floor area of approximately 4.5 square metres and is proposed for use by the applicant's two children.

### **APPLICANT'S SUPPORTING INFORMATION**

Planning statement  
Site location plan  
Existing and proposed block plans  
Treehouse block plan  
Proposed plans

### **RELEVANT PLANNING HISTORY**

01/01307/ARM - PERMIT date 16th July 2002  
Reserved Matters for the erection of 92 no dwellings with associated garages and roads

11/00358/FULL - PERMIT date 28th April 2011  
Erection of single storey extension to rear and installation of doors and juliette balcony to first floor side elevation

### **DEVELOPMENT PLAN POLICIES**

#### **Mid Devon Adopted Local Plan (2013-2033)**

S1 – Sustainable Development Policies  
S13 – Villages

DM1 – High Quality Design  
DM11 – Residential Extensions and Ancillary Development

## **CONSULTATIONS**

### **Willand Parish Council, 16<sup>th</sup> June 2020:**

Willand Parish Council had no objection to this application

### **Willand Parish Council, 16<sup>th</sup> August 2020:**

The Parish Council agreed that it had no objection to this amendment to the application but would like to have confirmation from a bona fide tree specialist that the tree would not suffer any damage by the construction of the tree house.

### **Tree Officer, 10<sup>th</sup> August 2020:**

I went out to site on Wed and viewed from the lane only as I was previously informed residents were away and no access to garden could be provided. The tree would have been present in the area the TPO was made so in my view are protected. Due to the nature of the area TPO there will always be some vagueness. Ideally the new group and single TPO should have been followed up with the area TPO revoked. In general I have no real concerns with the tree house and proposed out building. My understanding is that no branches will require removal to allow the tree house and appropriate nails/material used. The outbuilding appears to be a suitable distance from the other oak tree and do not envisage significant root conflict. As the tree grows they may be a need to for future tree works in order to avoid conflict between braches and the outbuilding. No doubt this can be elevated through light pruning as and when required. Application would be required to the council in each instance. Tree houses by their very nature tend to have a limited life space. I would not expect this to be a permanent fixture.

### **Highway Authority, 12<sup>th</sup> June 2020:**

Standing advice applies

<https://www.devon.gov.uk/planning/apply-for-planning-permission/get-help-with-an-application/guidance-for-applicants>

### **Environment Agency:**

Householder development and alterations within Flood Zone 1 - No EA consultation required.

## **REPRESENTATIONS**

No letters of representation have been received at the time of writing this report.

## **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

**The main issues in the determination of this application are:**

- 1. Policy, procedure and principle of development**
- 2. Impacts on the protected tree**

### **1. Policy, Procedure and Principle of Development**

In terms of a procedural matter, there is a small mistake on the existing and proposed block plans whereby an extension to the main dwelling is labelled as a 'proposed extension'. In actual fact, this extension was granted planning permission in 2011 and has since been built out. It is therefore an existing extension.

The Mid Devon District Council Local Plan Review has recently been adopted and as such, this is the up to date and relevant plan to assess this development against. Policies S1 (Sustainable Development) and S13 (Villages) outline acceptable forms of development within villages, of which Willand is classified. S13 states that small scale development is permitted. Householder development such as outbuildings, treehouses and fencing are considered to fall within this classification.

More specifically, Policy DM11 (Residential Extensions and Ancillary Development) supports this development subject to the following criteria:

- a) Respect the character, scale, setting and design of existing dwelling;
- b) Will not result in an over-development of the dwelling curtilage; and
- c) Will not have a significantly adverse impact on the living conditions of occupants of neighbouring properties.

A summary assessment of the scheme against these criteria is set out below:

- a) The proposed outbuilding measures approximately 8 by 5.5 metres. It includes a veranda and one main internal room. The overall ridge height is 3 metres making the building appear subservient to the main dwellinghouse. Similarly, the outbuilding is logically sited in the western corner of the rear garden area so that it can be accessed simply from the rear of the dwelling. In terms of materials, timber is proposed for the walls, windows and doors with a shingle roof resulting in a traditional and attractive appearance, fitting in with the surroundings. On balance, the building is considered to respect the character, scale, setting and design of the existing dwelling.

Similarly, the fence is 2.3 metres tall to its highest point which is marginally outside of what can be achieved via permitted development legislation. It is also a timber construction in-keeping with the main dwelling and wider area.

The tree house is also considered to respect the character, scale, setting and design of the existing dwelling. It is a modest 4.5 square metres and will sit comfortably within the tree, over time it will be increasingly well screened by branches and leaves.

- b) The 44 square metre outbuilding, whilst fairly significant, will be sited in the western corner of the rear garden area and will not impact the main rear garden area to the south and east of the building. Ample garden area will remain for the enjoyment of current and future residents. The fence replaces an existing fence on the property boundary and the tree

house is elevated above ground, as such both do not impact the property's garden. Overall, it is not considered that the scheme represents an over-development of dwelling curtilage.

- c) The property is detached, with the nearest residential dwelling being Number 5, to the north. The separation distance between the proposed outbuilding and Number 5 is approximately 15 metres. Whilst this distance is not particularly generous, the existing garage block that serves the two properties will act as a screen. The proposed veranda faces away from Number 5 and purely into the garden area of Number 6. Given the above and the scale of the buildings, there are no concerns with regards to overlooking, overbearing impacts or overshadowing.

There are windows on the treehouse which is in an elevated position and as such has greater opportunity for overlooking. However, the treehouse is a further distance from neighbouring properties, being approximately 25 metres from Number 5 and will be separated by other trees in the area and the branches from the oak that homes the tree house will also go some way to prevent overlooking. On balance, also giving consideration to the proposed use and modest scale of the tree house, it is not expected to result in significant adverse impacts for the amenity of residents of nearby residential properties.

Neighbours have been consulted on the proposal twice, both before and after the tree house was added to the proposal, and the proposal has been advertised by way of a site notice and in the local press. There have been no letters of objection received.

Overall, the scheme is therefore considered to be policy compliant.

## **2. Impacts on the Protected Tree**

As assessed above, the proposed tree house will not be contrary to policy. However, the impacts to the tree itself are material planning considerations. Firstly, within the planning statement submitted with the application, the applicants question whether the tree is indeed protected by the group TPO. The view of the Council's specialist Tree Officer is that the tree is still subject to the order and therefore protected. He explains in his comments that at the time, the TPO for single trees could have been revoked but in his professional view, as it stands, the tree is protected. As such, the application has been assessed in this way.

Despite the tree being protected, the Tree Officer raises no objection to the tree house. It is his view that no branches will require removal to allow the tree house and appropriate nails/material were used. The health of the tree is therefore not in danger and visually, given the timber construction and modest scale, there are no significant adverse impacts.

The impact of the proposed outbuilding on nearby protected trees has also been assessed and following the Tree Officer's site visit, he raised no objection with regard to the outbuilding either.

As such, there will be no significant impacts from this development on protected tree(s) and it is highlighted that any future works to protected trees i.e. pruning etc. will need to be accompanied by the relevant application.

## 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 outbuilding hereby approved shall be used for purposes ancillary to the main property. It shall not be used for separate self-contained residential accommodation (C3) or be let, sold or otherwise occupied independently of the dwelling approved on site.

## REASONS FOR CONDITIONS

1. In accordance with provisions of Section 51 of the Planning and Compulsory Purchase Act 2004.
2. For the avoidance of doubt in the interests of proper planning.
3. The proposal is for garage accommodation and new permanent residential use would require formal planning permission with an assessment required over the acceptability in policy terms given the location of the site and relationship of the proposed dwelling and surrounding properties, in accordance with Policies S1 and S13 of Mid Devon Local Plan Review (2013-2033) and guidance in the National Planning Policy Framework.

## INFORMATIVES

1. If you are planning a new development or extending an existing property over, or within 3 metres of public assets you need to contact South West Water.  
Note: South West Water will not permit building within 4.5 metres of public water mains, sewage rising mains or sewers on a new development or redevelopment site. For more information please refer to the information on our website:  
Clean water – <https://www.southwestwater.co.uk/developer-services/water-services-and-connections/building-near-water-mains/>  
Waste water - <https://www.southwestwater.co.uk/buildover>

## REASON FOR APPROVAL OF PERMISSION

The application scheme for the erection of domestic outbuilding, replacement fence and retention of tree house at 6 Poppy Close, Willand is considered acceptable as a matter of principle. The overall scale and design of the outbuilding, fencing and tree house is considered to be acceptable. The development will not have an adverse impact on the dwelling curtilage or any significant impacts on the amenity of residents of nearby residential properties. Similarly, there are no significant adverse impacts identified on the relevant protected oak tree. As such, the scheme complies with Policies S1, S13, DM1 and DM11 of the Mid Devon Local Plan Review (2013-2033) and the National Planning Policy Framework.

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



Application No. 20/01024/LBC

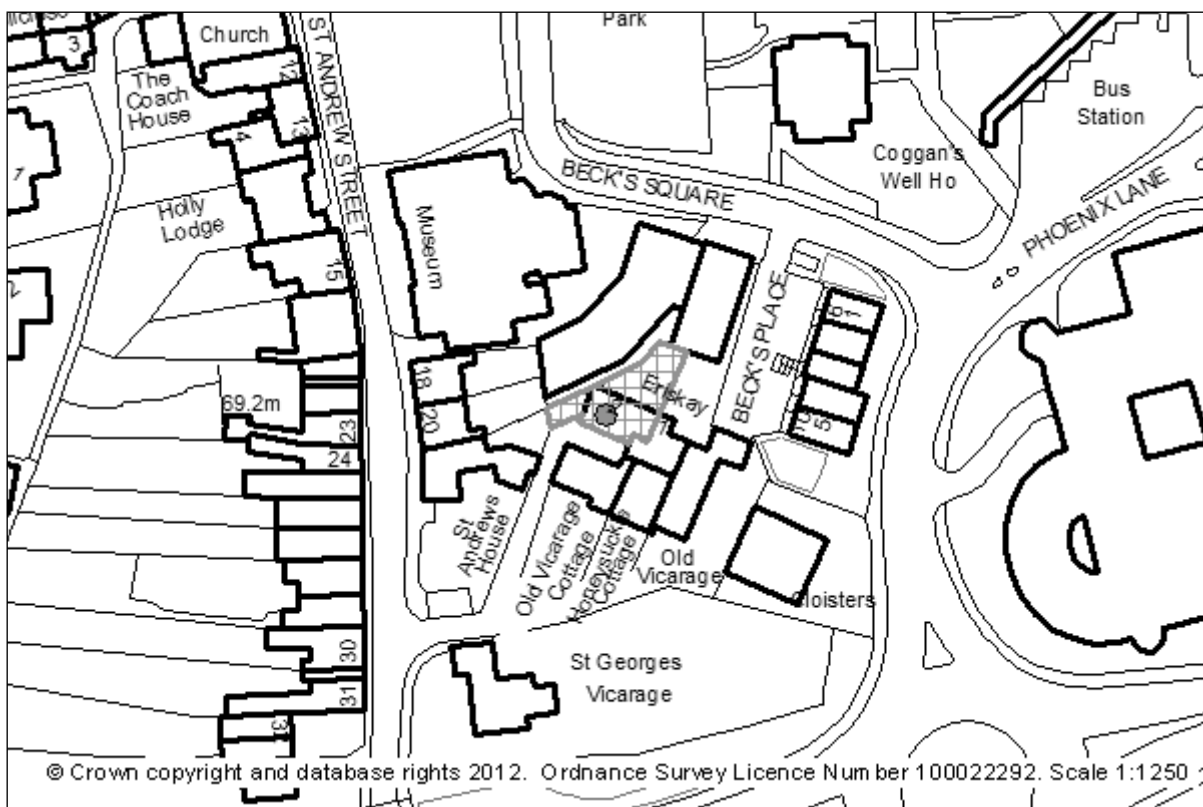
Grid Ref: 295466 : 112349

Applicant: Mrs Carole Oliphant

Location: The Old Carriage House  
St Andrew Street North  
Tiverton  
Devon

Proposal: Listed Building Consent for installation of 1 replacement window

Date Valid: 8th July 2020



## **APPLICATION NO: 20/01024/LBC**

### **CALL-IN REASON**

The applicant is employed by Mid Devon District Council

### **RECOMMENDATION**

Grant Listed Building Consent subject to conditions

### **PROPOSED DEVELOPMENT**

The application is for Listed Building Consent for installation of 1 replacement window at The Old Carriage House, St Andrew Street North, Tiverton a grade II listed property.

The list description advises that the property was a former vicarage to St Georges Church, divided into five private houses in the 20<sup>th</sup> century. The vicarage dates from the late 17<sup>th</sup> century. The property is two storey and roughcast rendered on cob and stone walling and a hipped slate roof with deep eaves and chimneystacks with brick shafts.

The south and east elevations are described as relatively smart with the south having an asymmetrical 5-window front, with small-pane glazed 20<sup>th</sup> century front door to the left of centre and a slate roofed verandah on slender paired iron columns. The east has an asymmetrical 3 window range. The ground floor has a central door with pilasters and banded rustication, sunk panels and pediment over. The panelled front door has a deep overlight with tall 2-light French windows with small pairs of high transoms either side and to the first floor the outer windows are 16-pane hornless sashes, centre window is a small-pane 2-light casement with margin panes.

The north wing subject of this application and now called the Old Carriage House reflecting its apparent former purpose. It is understood the interior of the property has no historical features having been converted to a dwelling in 1983. The former Vicarage is located off St Andrews Street to the southern end set behind the current St Georges Vicarage with the Tiverton Museum about 20 m to the north west.

### **APPLICANT'S SUPPORTING INFORMATION**

Application Form  
Design and Access Statement  
Heritage Statement  
Justification  
Photographs

### **RELEVANT PLANNING HISTORY**

09/01041/LBC - PERMIT date 2nd September 2009 - Listed Building Consent for installation of 1kw solar pv system and external alterations

14/00805/LBC - PERMIT date 15th July 2014 - Listed Building Consent for the replacement of back door with french doors

19/02034/LBC - PERCON date 17th February 2020 - Listed Building consent for internal alterations to create an en-suite shower room

## **DEVELOPMENT PLAN POLICIES**

### **Mid Devon Local Plan Review 2013 – 2033**

S1 - Sustainable Development Strategies  
DM25 - Development Affecting Heritage Assets

### **National Planning Policy Framework 2019**

193. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

194. Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification

196. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

## **CONSULTATIONS**

**Tiverton Town Council** – 22nd July 2020  
Tiverton Town Council have supported this application

**Highway Authority** – 17th July 2020  
No Comments

## **REPRESENTATIONS**

1 Letter of objection has been received that considered that the replacement window should look identical to the original window.

Covid-19 advertisement of application:

This planning application has been advertised by means of a site notice erected by applicant, and by advertising in a local newspaper in accordance with the legal requirements for publicity on planning applications, and the Council's Adopted Statement of Community Involvement October 2016.

## **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

The application relates to the replacement of the first floor landing window dating from the conversion in 1983. This small window was double glazed with a top hung opening light that had become rotten and was found to be beyond repair when examined and the window was removed for safety reasons. The opening where the window was situated was boarded up whilst a replacement window could be secured.

An exact replacement window could not be sourced with a top opening light due to suppliers not being open due to Covid-19 restrictions and a replacement window was made by a local joiner but as a double glazed pane of glass without the top opening light.

The alterations are considered under Mid Devon local Plan Review 2013 – 2033 Policy DM25 (Development affecting heritage assets) and NPPF paragraph 196. These require that where the alterations are considered to cause 'less than substantial harm' then a justification is required for these works and Mid Devon Local Plan Review 2013 – 33 Policy DM25 Development Affecting Heritage Assets. Replacement windows are considered under Historic England Guidance on Care Repair and Upgrade of Traditional Windows 2017.

The application is retrospective for the replacement timber frame window to the same opening as the former window. The original window had been installed in 1983 as part of the conversion to a separate flat. The original 1983 window and opening is a non-traditional form and is located discreetly fronting south east onto a private courtyard area.

The original window had no architectural or historic interest and its replacement with a single double glazed unit in a timber frame window replacement rather than matching the opening top hung light is not substantial as to change the importance of this window which has neutral significance in context of the building.

The window preserves the character of the listed building and its significance.

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.

## **CONDITIONS**

1. The works hereby permitted shall be begun before the expiration of three years from the date of this consent.
2. The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice.

## **REASONS FOR CONDITIONS**

1. In accordance with Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
2. For the avoidance of doubt and in the interests of proper planning.

## **REASON FOR GRANT OF CONSENT**

The previous landing window and its opening date from the 1983 conversion to a flat, Carriage House and were a non-traditional form and appearance. The replacement window is an equally non-traditional double glazed timber unit in a simple timber frame. The original window had no architectural or historic interest and the difference between the original and the replacement window is not substantial as to change the relative significance of this window which is neutral in context of the building. It is considered that the already installed replacement window preserves the character of the listed building and its significance and no justification is required. The proposal is in accordance with Mid Devon Local Plan Review 2013 – 33 (Managing Development) Policy

DM25 Development Affecting Heritage Assets and paragraph 196 of the National Planning Policy Framework.

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

Application No. 20/00622/OUT

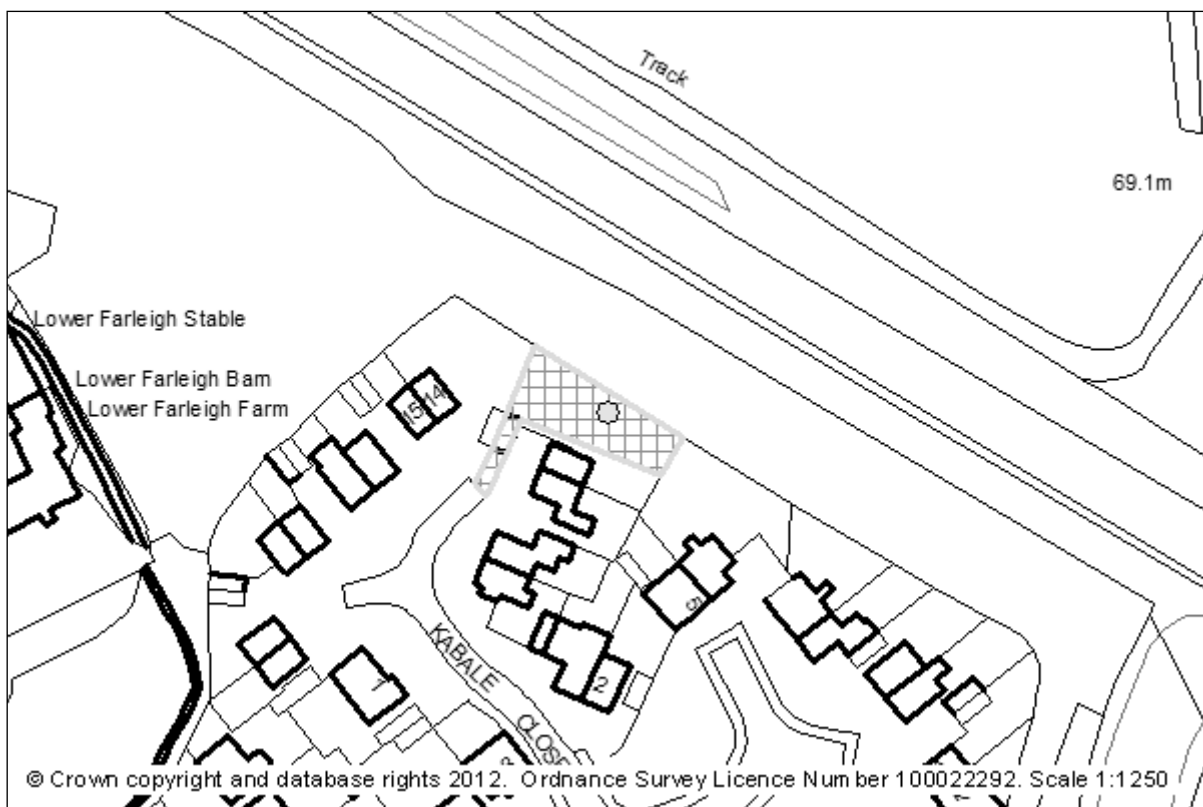
Grid Ref: 294424 : 113848

Applicant: Mr & Mrs G Wright

Location: 12 Kabale Close  
Tiverton  
Devon

Proposal: Outline for the erection of 1 dwelling

Date Valid: 21<sup>st</sup> April 2020



## **APPLICATION NO: 20/00622/OUT**

### **MEMBER CALL-IN**

Councillor Ron Dolley has called this into committee for the following reason:

1. For the Planning Committee to consider whether to the access and parking arrangements are adequate.

### **RECOMMENDATION**

Grant planning permission

### **PROPOSED DEVELOPMENT**

The applicant seeks outline consent for the erection of 1 dwelling at 12 Kabale Close, Tiverton.

### **RELEVANT PLANNING HISTORY**

85/00613/FULL - PERMIT date 23rd December 1985

Residential development including off site road and drainage works and a shop

86/00080/FULL - PERMIT date 21st March 1986

Erection of dwellings with garages, drainage and access roads thereto (revised drawings)

### **DEVELOPMENT PLAN POLICIES**

#### **Mid Devon Local Plan Review 2013-2033**

S1 – Sustainable development priorities

S2 – Amount and distribution of development

S3 – Meeting housing needs

S8 – Infrastructure

S9 – Environment

S10 - Tiverton

DM1 – High Quality Design

DM5 – Parking

### **CONSULTATIONS**

#### **Tiverton Town Council** – 22nd July 2020

Unable to support as felt to be over development

#### **Highway Authority** – 15th July 2020

This application would normally be dealt with using Standing Advice and the Planning Officer would assess the impact this would have on the Highway Network. In this case the Planning Officer has asked for the County Highway Authority's observations.

The site is accessed off an unclassified County Route which is restricted to 30 MPH. The number of personal injury collisions which have been reported to the police in this area between 01/01/2014 and 31/12/2018 is none. The Drawing Number C/PLP/OWG Rev 1 shows the proposed property to have a 2 parking spaces and an open drive way to these parking

spaces. The number of trips this development could generate will not be a severe affect on the Highway. The Highway Authority has no objections to this proposal

THE HEAD OF PLANNING, TRANSPORTATION AND ENVIRONMENT, ON BEHALF OF DEVON COUNTY COUNCIL, AS LOCAL HIGHWAY AUTHORITY, HAS NO OBJECTION TO THE PROPOSED DEVELOPMENT

**Environment Agency** - Standing advice – flood zone 1

### **Public Health**

Contaminated Land: No objection to this proposal. (29.04.20).

Air Quality: No objection to this proposal. (29.04.20).

Environmental Permitting: No objection to this proposal. (24.04.20).

Drainage: No objection to this proposal. (29.04.20).

Noise & other nuisances: This is a noise sensitive dwelling being brought to an existing noise source (A361), the developer needs to demonstrate that all mitigation methods have been considered to achieve satisfactory internal noise levels within the proposed build.

To help achieve this, a BS 8233 (2014) noise assessment should be undertaken.

For a new noise sensitive development near an existing source of transport noise the LAeq (16hr day and 8hr night), or the shortened calculation method, should be measured. In addition, suitable shorter term LAeq, LA90, LA10 and LAmx would be expected to give a clearer picture of the existing noise environment. (29.04.20).

Update - Noise assessment can be dealt with at reserved matters (02.07.20)

Housing Standards: There are no floor plans to comment on. (04.05.20).

Licensing: No comments. (24.04.20).

Food Hygiene: No comments. (24.04.20).

Private Water Supplies: Not applicable. (24.04.20).

Health and Safety: No comments. (24.04.20).

### **REPRESENTATIONS**

Representations in objection to the proposal have been received from 5 individuals and a petition of objection with 12 names and addresses listed. The comments received are summarised as follows:

1. The new access goes past the front of the neighbouring property, concern that traffic might drive over yard and possibly damage property
2. The access is not big enough to accommodate another property
3. There is not enough room for parking. Kabale Close and Hofheim Drive are already congested at evenings and weekends
4. Overdevelopment of the area. All of the other houses have garages and spacious gardens
5. The access will require demolition of part of a shared double garage
6. The windows and doors from the house would overlook other properties and result in loss of privacy
7. The application does not maintain the area's character and setting and shows a downgrading of local amenity
8. The access will cause disturbance through noise and exhaust fumes
9. Joint access is not common to other properties locally
10. More details should be show if it is proposed to be a bungalow or house
11. The driveway width is less than highways standing advice
12. The porch of No12 is not shown on the plans and the front garden has been shown shortened



## **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

**The main issues in the determination of this application are:**

- 1. Policy**
- 2. Impact on character and appearance of the area**
- 3. Suitability of access, parking and highway safety**
- 4. Impact on neighbours**

### **1. Policy:**

The site is located within the settlement boundary for Tiverton.

Policy S1 of the Mid Devon Local Plan Review seeks to support the creation of sustainable communities by focusing development in Mid Devon's most sustainable settlements, including Tiverton and delivering a wide choice of high quality homes through a diverse housing mix.

Policy S2 states that development will be concentrated at Tiverton, Cullompton and Crediton to a scale and mix appropriate to their characters and constraints.

Policy S9 states that development will sustain the distinctive quality, character and diversity of Mid Devon's environmental assets.

Policy DM1 requires the design of new development to be high quality, making efficient and effective use of a site based on a clear understanding of the character of the site, its wider context and the surrounding area. Also ensuring adequate levels of privacy to private amenity spaces and adequate external for recycling, refuse and cycle storage.

Policy DM5 sets out that new development should provide a minimum of 1.7 car parking spaces per dwelling, rounded up to 2 spaces per dwelling for developments comprising one or two dwellings.

### **2. Impact on the character of the area:**

The site comprises part of the garden to the north of No12 Kabale Close measuring approximately 280 square metres. It is broadly level and is currently laid to grass. The site is bounded to the north by a hedge; the eastern and western boundaries are closeboarded fences approx. 1.8m high.

The site is located at the end of the cul-de-sac. The access to the site would be via an existing driveway which extends to the front of the property and also forms the eastern boundary of No10. The proposal would involve removing half of the existing shared double garage in order to provide access. Parking for the existing property would be provided immediately to the front of the house.

The application is for outline with all matters reserved. Details relating to appearance, means of access, landscaping, layout and scale would be considered through a subsequent reserved matters application. The application is therefore a consideration as to whether the principle of a dwelling on this would be acceptable.

The application site is comparable to if not larger in area than most of the other individual plots within Kabale Close. The new dwelling could be located so that it would not project forward of the existing houses at Nos 10 & 12 while maintaining adequate external space to the front and rear for parking and private garden respectively.

The properties on Kabale Close are predominately two storey semi-detached buildings which front onto the public highway. A new dwelling on the proposed site would be different in that it would be set back from public highway and would be the only property in the Close which would be accessed via a shared drive. The proposed development would also result in the loss of a part of an existing garage building and the introduction of parking to the front of the existing house. Notwithstanding these matters it is considered that, subject to the agreement of a suitable design, materials and siting through a reserved matters application, a single dwelling could be adequately accommodated within the site without adversely affecting the character and appearance of its immediate surroundings in accordance with Policy DM1 of the Mid Devon Local Plan Review.

Further to the above, Members should be aware that the elements of the proposal comprising the removal of the garage and the provision of a permeable hardsurface for parking to the front or side of the property are permitted development and could be carried out at any time without the need for planning permission.

### **3. Suitability of access, parking and highway safety**

A number of concerns have been raised from the nearby residents regarding the use of the existing driveway as a vehicular access for the proposed new dwelling. Currently the tarmac driveway terminates at the garage. The proposal is to demolish half of the garage to provide vehicle and pedestrian access to the site from the public highway.

The alignment of the drive is slightly awkward where it meets the road as it projects back from the junction at an angle. The width of the access is also narrower than the minimum width set out Devon County Council's Highways Standing Advice which requires private drives serving up to three dwellings to be 3.0m wide. The access as shown on the plans would be 2.3m at the back edge of the turning head widening to 2.5m adjacent to the front of the garage.

While officers accept that it would be preferable for the width of the driveway to meet the standards set out in the standing advice the fact is that the driveway is a lawful access which is clearly capable of serving as an access for vehicular traffic as it has done so for many years. It is located at the end of the cul-de-sac where vehicle speeds are low. As referred to in section 2 above the owner of No12 could remove the garage and provide permeable hardstanding to the front and/or side of the property at any time without requiring planning permission. The Highways Authority has appraised the impact of the proposed development on the public highway and has raised no objections to the use of the existing driveway to serve the new dwelling.

While there would undoubtedly be an increase in level of traffic using the access should planning permission be granted for an additional dwelling on the site having regard for the above it is not considered that the increase would cause demonstrable harm to the highway safety or present a situation which would cause significant conflict for users of the other private driveways in the area.

On the issue of parking the application site is considered large enough to be able accommodate the two spaces required by Policy DM5 for the new dwelling. The plans indicate that there would also be two spaces provided to the front of No12 for the occupiers of the

existing dwelling however this does not take into account the existing porch to the front of the property and it has not been demonstrated on the drawings that there is sufficient area to manoeuvre in and out of the using the shared access driveway if both spaces were in use at the same time. Notwithstanding these matters the existing property only currently has one parking space in policy terms as the garage is discounted from any calculation under Principle 5 of the Mid Devon 'Provision of parking in new development' Supplementary Planning Document since it states that garages will not be counted as parking spaces.

There would be adequate ground area for a minimum of one space to the front of No12 which is all that is required to meet policy requirements.

#### **4. Impact on neighbours:**

Paragraph 127(f) of the NPPF states that developments should create a high standard of amenity for existing and future users. This is reflected in Policy DM1 which states that proposals should not have an unacceptably adverse effect on the privacy and amenity of the proposed or neighbouring properties and uses.

As this is an outline application with all matters reserved it provides no formal detail of the proposed scale of development, layout or window placement and this detail will be assessed as part of a reserved matters application. However given the siting of the plot in relation to neighbouring dwellings and their orientation in relation to the site, it is considered that it is likely that residential development could be accommodated on the site in a fashion that provides sufficient distance and juxtaposition between the possible development and the neighbouring properties so as to not to significantly adversely affect the living conditions of the occupiers of those dwellings.

Given the proximity of the adjoining neighbour to the proposed access and its alignment with the highway it is acknowledged that there would be some additional disturbance on the occupiers of No10 through the noise and headlights from vehicles passing along the driveway to the access the site however it is not considered that this would be materially harmful to amenity for those occupiers and not significantly different from the relationship that some other properties in the area have with vehicles using the public highway in terms of distance separating the two.

The garden that would be retained for No12 would be adequate in terms of size and quality to serve the occupiers of the existing dwelling.

#### **5. Other matters:**

The northern boundary of the application site is located approximately 25m from the edge of the northbound carriageway of the A361 which has been identified by MDDC Public Health as being a noise source with potential to cause nuisance to the potential occupiers of the proposed property.

Paragraph 170(e) of the NPPF states that new development should not be adversely affected by unacceptable levels of noise pollution. Policy DM1 requires development not to have an unacceptably adverse affect on the amenity of proposed properties.

It will need to be demonstrated through the reserved matters application that mitigation methods have been considered to achieve satisfactory internal noise levels within the proposed build.

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.

## **SUMMARY/REASON FOR APPROVAL**

The proposal is acceptable in principle as the site is considered to be a sustainable location within the settlement boundary of Tiverton. The site is large enough to accommodate an additional dwelling at a density that would be compatible with its surroundings. It is considered that access to the new residential use can be achieved without significant harm to the living conditions of the occupiers of nearby properties. 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. As such the proposal is considered in accordance with the Mid Devon Local Plan Review 2013-2033 Policies S1, S2, S8, S9, S10, DM1 and DM5 and the advice contained in 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, and the landscaping of the site (hereinafter called the Reserved Matters) shall be submitted to and approved in writing by the Local Planning Authority.
2. Application(s) for approval of all Reserved Matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.
3. The development hereby permitted shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of approval of the last of the Reserved Matters which have been approved, whichever is the later.
4. The detailed drawings required to be submitted by Condition 1 shall include the following additional information: boundary treatments, hard and soft landscaping, existing site levels, finished floor levels, materials, surface water drainage methods, foul water disposal methods and replacement parking provision for 12 Kabale Close.
5. Construction works shall not take place outside 07.30 hours to 19.00 hours Mondays to Fridays and 07.30 to 13.00 hours on Saturdays and at no time on Sundays, Bank Holidays and Christmas Day.

## **REASONS FOR CONDITIONS**

1. The application was submitted as an outline application in accordance with the provisions of Articles 4 and 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 proposed scheme details in accordance with Policies S1, S9, DM5 and DM12 of the Mid Devon Local Plan Review 2013-2033.
5. To ensure that the proposed development does not prejudice the amenities of neighbouring occupiers in accordance with Policies DM1 and DM12 of the Mid Devon Local Plan Review 2013-2033.

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

Application No. 19/01839/MOUT

Grid Ref: 301216 : 106714

Applicant: Taylor Wimpey UK Ltd

Location: Land at NGR 301216 106714  
(West Of Siskin Chase)  
Colebrooke Lane  
Cullompton

Proposal: Outline for the erection of up to 105 dwellings, associated landscaping, public open space and allotments together with vehicle and pedestrian access from Siskin Chase and pedestrian access from Colebrooke Lane

Date Valid: 23rd October 2019



## **APPLICATION NO: 19/01839/MOUT**

### **RECOMMENDATION**

Subject to the prior signing of a s106 agreement to secure the following:

- 1) Affordable housing - 28% on-site provision of affordable housing with a proposed tenure split (75% affordable rent and 25% shared ownership), as well as the triggers for providing such housing (all provisions as per UU2 but with 28% affordable housing fixed in place of 'up to 35%')
- 2) Education contributions - The provision of primary, secondary and early years education contributions as per 'UU2'
- 3) Air quality - The provision of the required air quality contribution of £40,169 to be used for the purposes of minimising road traffic emissions arising from the Development by delivering the Cullompton Air Quality Action Plan and the provision of electric charging cabling as per 'UU2'
- 4) POS - The provision and maintenance of Public Open Space on site for the lifetime of the development as per 'UU2'
- 5) Travel plan – the submission of and adherence to a Travel plan as per 'UU2'

Grant outline planning permission subject to conditions

*[NB: references to UU2 above relates to the s106 undertaking permitted as part of the appeal determined under ref: 19/00118/MOUT – please see material considerations and observations section for further information]*

### **PROPOSED DEVELOPMENT**

This is a duplicate application to the one recently allowed at appeal ( ref: 19/00118/MOUT). Extensions of time have been agreed with the applicant since submission. The applicants are now wishing to have the application determined so that the s106 agreement can reflect the current policy position of a requirement for 28% affordable housing. This is discussed in detail in the 'material considerations and observations' section of this report.

This is an outline application to establish the principle of the erection of up to 105 dwellings, associated landscaping, public open space and allotments together with vehicle and pedestrian access from Siskin Chase and pedestrian access from Colebrooke Lane. All matters such as appearance, landscaping, layout and scale reserved for future consideration within any reserved matters application. The access is the one matter for which approval is sought as part of this application, as per the previous application. The application is identical to the previous application in all respects.

### **APPLICANT'S SUPPORTING INFORMATION**

Arboricultural Impact Assessment Report  
Design and Access Statement  
Draft Heads of Terms  
Ecological Impact Assessment  
Energy and Sustainability Statement  
Flood Risk Assessment and Drainage Strategy

Heritage Statement  
Landscape and Visual Impact Assessment  
Planning Statement  
Statement of Community Involvement  
Transport Assessment  
Tree Constraints Plan  
Tree Protection Plan  
Waste Audit Statement  
Transport Assessment  
Various plans

## **RELEVANT PLANNING HISTORY**

18/01826/SCR - CLOSED date 16th November 2018

Request for Screening Opinion in respect of proposed development of 105 dwellings together with associated amenity and open space provision landscape and access from Siskin Close

19/00118/MOUT - PDE date

Outline for the erection of up to 105 dwellings, associated landscaping, public open space and allotments together with vehicle and pedestrian access from Siskin Chase and pedestrian access from Colebrooke Lane - APPEAL ALLOWED -PLANNING PERMISSION GRANTED 09-07-20

## **DEVELOPMENT PLAN POLICIES**

### **Local Plan Review 2013-2033**

S1 - Sustainable development  
S3 - Meeting Housing Needs  
S5 - Public Open Space  
S8 - Infrastructure  
S9 - Environment  
S11 - Cullompton  
DM1 - High Quality Design  
DM3 - Transport and air quality  
DM5 - Parking  
DM26 - Green Infrastructure in Major Development  
CU21 - Land at Colebrooke

## **CONSULTATIONS**

### **CULLOMPTON TOWN COUNCIL – 21<sup>st</sup> November 2019**

Cullompton Town Council recommends refusal of the above outline planning application as it considers the access via Siskin Chase to be unsuitable due to the considerable inconvenience and impact on health that will be caused to residents during construction work and an unacceptable increase in traffic that will be created once the homes are occupied.

### **HIGHWAY AUTHORITY - 27th January 2020 - Observations:**

The application mirrors that of the previous application currently at appeal, and the Highway Authorities previous comments and conditions equally apply to the current application. Through the committee process as desire to see the access from Colebrooke lane was raised by the Committee and the Highway Authority would have no objection to access being from this road subject to highway widening , the land required is outside the highway Authorities control or the applicants but searches of the previous planning consents would



indicate the land required is in the control of MDDC as public open space. While it would be reasonable to condition such a route from this development the potential for further development at the rugby club has been discussed and the protection of land to enable the route to be constructed could form part of a section 106. This would need to be by negotiation as the rugby club does not have any status under the Local plan Review and would be a windfall site should it come forward.

Therefore subject to the previous conditions being imposed the highway authority would raise 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. Prior to commencement of any part of the site the Planning Authority shall have received and approved a Construction Management Plan (CMP) including:

- (a) the timetable of the works;
- (b) daily hours of construction;
- (c) any road closure;
- (d) hours during which delivery and construction traffic will travel to and from the site, with such vehicular movements being restricted to between 8:00am and 6pm Mondays to Fridays inc.; 9.00am to 1.00pm Saturdays, and no such vehicular movements taking place on Sundays and Bank/Public Holidays unless agreed by the planning Authority in advance;
- (e) the number and sizes of vehicles visiting the site in connection with the development and the frequency of their visits;
- (f) the compound/location where all building materials, finished or unfinished products, parts, crates, packing materials and waste will be stored during the demolition and construction phases;
- (g) areas on-site where delivery vehicles and construction traffic will load or unload building materials, finished or unfinished products, parts, crates, packing materials and waste with confirmation that no construction traffic or delivery vehicles will park on the County highway for loading or unloading purposes, unless prior written agreement has been given by the Local Planning Authority;
- (h) hours during which no construction traffic will be present at the site;
- (i) the means of enclosure of the site during construction works; and
- (j) details of proposals to promote car sharing amongst construction staff in order to limit construction staff vehicles parking off-site
- (k) details of wheel washing facilities and obligations
- (l) The proposed route of all construction traffic exceeding 7.5 tonnes.
- (m) Details of the amount and location of construction worker parking.
- (n) Photographic evidence of the condition of adjacent public highway prior to commencement of any work;

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

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

3. No development shall take place until a surface water drainage scheme has been

submitted to and approved in writing by the County Planning Authority. Unless it is demonstrated that it is unfeasible to do so, the scheme shall use appropriate Sustainable Urban Drainage Systems. The drainage scheme shall be designed so that there is no increase in the rate of surface water runoff from the site resulting from the development and so that storm water flows are attenuated. The development shall be carried out in accordance with the approved scheme.

REASON: To protect water quality and minimise flood risk in accordance with Flood management act

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

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

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

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

- A) The spine road and cul-de-sac carriageway including the vehicle turning head within that phase shall have been laid out, kerbed, drained and constructed up to and including base course level, the ironwork set to base course level and the sewers, manholes and service crossings completed;
- B) The spine road and cul-de-sac footways and footpaths which provide that dwelling with direct pedestrian routes to an existing highway maintainable at public expense have been constructed up to and including base course level;
- C) The cul-de-sac visibility splays have been laid out to their final level;
- D) The street lighting for the spine road and cul-de-sac and footpaths has been erected and is operational;
- E) The car parking and any other vehicular access facility required for the dwelling by this permission has/have been completed;
- F) The verge and service margin and vehicle crossing on the road frontage of the dwelling have been completed with the highway boundary properly defined;
- G) The street nameplates for the spine road and cul-de-sac have been provided and erected.

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

#### **FLOOD and COASTAL RISK MANAGEMENT TEAM - 9th December 2019**

We have no in-principle objections to the above planning application at this stage, assuming that the following pre-commencement planning conditions are imposed on any approved permission:

- No part of the development hereby permitted shall be commenced until the detailed design of the proposed permanent surface water drainage management system has been submitted to, and approved in writing by, the Local Planning Authority, in consultation with Devon County Council as the Lead Local Flood Authority. The design of this permanent surface water drainage management system will be in accordance with the principles of sustainable drainage systems, and those set out in the Flood Risk Assessment and Drainage Strategy (Ref. 173040; dated December 2018) and the additional information contained within the letter RE: West of Siskin Chase, Cullompton (dated 13<sup>th</sup> March 2019).

Reason: To ensure that surface water runoff from the development is managed in accordance with the principles of sustainable drainage systems.

Reason for being a pre-commencement condition: A detailed permanent surface water drainage management plan is required prior to commencement of any works to demonstrate that the plan fits within the site layout, manages surface water safely and does not increase flood risk downstream.

Advice: Refer to Devon County Council's Sustainable Drainage Guidance.

- No part of the development hereby permitted shall be commenced until the full details of the adoption and maintenance arrangements for the proposed permanent surface water drainage management system have been submitted to, and approved in writing by, the Local Planning Authority, in consultation with Devon County Council as the Lead Local Flood Authority.

Reason: To ensure that the development's permanent surface water drainage management systems will remain fully operational throughout the lifetime of the development.

Reason for being a pre-commencement condition: These details need to be submitted prior to commencement of any works to ensure that suitable plans are in place for the maintenance of the permanent surface water drainage management plan, for the reason above.

- No part of the development hereby permitted shall be commenced until the detailed design of the proposed surface water drainage management system which will serve the development site for the full period of its construction has been submitted to, and approved in writing by, the Local Planning Authority, in consultation with Devon County Council as the Lead Local Flood Authority. This temporary surface water drainage management system must satisfactorily address both the rates and volumes, and quality, of the surface water runoff from the construction site.

Reason: To ensure that surface water runoff from the construction site is appropriately managed so as to not increase the flood risk, or pose water quality issues, to the surrounding area.

Reason for being a pre-commencement condition: A plan needs to be demonstrated prior to the commencement of any works to ensure that surface water can be managed suitably without increasing flood risk downstream, negatively affecting water quality downstream or negatively impacting on surrounding areas and infrastructure.

Advice: Refer to Devon County Council's Sustainable Drainage Guidance.

Observations:

It is assumed that the appendices document A-H which was submitted in the 19/00118MOUT application is also applicable for 19/01839/MOUT. If this is the case this document should be submitted to the Local Planning Authority and the conditions and observations for this surface water drainage strategy are the same as for the previous application.

Groundwater was encountered during the site investigation (dated May 2018). Groundwater will need to be accounted for within the design of the surface water drainage system. The excavation of a basin or tank will need to account for groundwater, these structures will also need to account for any effects (such as flotation) which can occur due to high groundwater levels. If groundwater is not monitored within the vicinity of the storage features then a conservative level should be used (at the moment a groundwater record of 0.2m below ground level is close to the proposed storage feature).

A SuDS Management Train should be implemented to ensure that surface water is well treated before being discharged to the watercourse. If an attenuation tank is proposed then a robust statement will need to be submitted at the next stage of planning to clarify why an above-ground feature cannot be implemented. If an attenuation tank is proposed then above-ground features will still be needed to ensure sufficient treatment of surface water.

If a storage feature formed by bunds is proposed, then the Local Planning Authorities Landscape Officer may need to review this.

## **HISTORIC ENVIRONMENT TEAM - 11th November 2019 -**

The proposed development site lies in an area of archaeological potential with regard to known prehistoric and Romano-British activity within Cullompton and in the surrounding landscape. The

geophysical survey undertaken in support of this application does not indicate the presence of any significant heritage assets with archaeological interest within the proposed development site. However, several anomalies have been identified that indicate the presence of archaeological deposits that will be affected by the proposed development. As such, the impact of development upon the archaeological resource here should be mitigated by a programme of archaeological work that should investigate, record and analyse the archaeological evidence that will otherwise be destroyed by the proposed development.

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 a staged programme of archaeological works, commencing with the excavation of a series of evaluative trenches to determine nature and significance of anomaly 8, as identified in the geophysical survey report, any further mitigation here would depend upon these results. In addition, the south-eastern part of the site should be subject to strip, map and recording where the survey has identified discrete anomalies that may be pits. 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/>.

**PUBLIC HEALTH - Contaminated Land:** The proposed development may be on land affected by land contamination resulting from previous or current land use(s) on or adjacent to the development site.

Recommended conditions:

1) Before the development hereby approved is commenced, a site investigation and risk assessment shall be carried out to determine the nature and extent of land contamination that may be present and the likely impact on all receptors that may result. A full report of the investigation and risk assessment shall be forwarded to the LPA for approval. No work shall proceed on site until either the LPA grants written consent for the development to commence or the requirements of condition (2) below are met.

2) Where actual or probable significant pollutant linkages are found following the investigation and risk assessment required by condition (1) above, the applicant shall submit a remediation statement together with a timescale for completion of the required works for approval in writing by the LPA.

3) Following completion of any works required by condition (2) above, a remediation validation report shall be submitted to the LPA for approval in writing. Occupation on the site, or parts of the site affected by land contamination, shall not take place until approval of the validation report has been granted.

Reason: In the interests of public health and the protection of the environment

Informative note: It is recommended that applicants, agents and developers take specialist consultant advice before complying with these conditions. (04.11.19).

Air Quality: See comments for 19/00118/MOUT. (04.11.19).

Environmental Permitting: No objections to this proposal. (04.11.19).

Drainage: No objections to this proposal. (04.11.19).

Noise & other nuisances: No work shall be carried out on the site on any Sunday, Christmas Day or Bank Holiday or other than between the hours of 0730 and 1900 hours on Monday to Fridays and 0730 and 1300 on Saturdays.

Reason: To ensure that the proposed development does not prejudice the amenities of neighbouring properties. (04.11.19).

Housing Standards: No objections to this proposal. (04.11.19).

Licensing: No comments. (04.11.19).

Food Hygiene: Not applicable. (04.11.19).

Private Water Supplies: Not applicable. (04.11.19).

Health and Safety: No objection to this proposal enforced by HSE. (04.11.19).

RSPB - 18th November 2019 - We have reviewed the Ecological Impact Assessment and whilst we are pleased to see that

4.1.9 To mitigate loss of nesting sites during site clearance and provide additional nesting opportunities, 50 bird boxes would be integrated into new buildings and/or installed on retained trees. Schwegler Lightweight Swift Type 1A Boxes (or similar approved) would be integrated into new buildings avoiding south and south west facing aspects. These are suitable for use by a range of species including swifts, blue tits and great tit, and can also be used by declining urban species such as house sparrow. Full details of bird box provision would be specified in the CEcoMP.

We don't agree that this is an adequate provision for building dependent species, I have attached the RSPB's current guidelines together with a paper submitted to the CIEEM included in a recent quarterly bulletin that sets out our current position.

You will see that we recommend a ratio of one integral bird box per residential dwelling, after overseeing the installation of this quantity for a number of years we have found that boxes designed for swifts are used by most of the species that nest/roost in the cavities found in older buildings and mature trees and recommend their use more or less exclusively.

Current thinking on what is best "Best Practice" in the field of "Biodiversity Gain" lead us to conclude that bat tubes and "solitary bee bricks" should be considered in addition to the above and we think it would be very difficult to justify equal numbers of bird bricks to bat tubes on ecological grounds.

We agree that details of all the steps to achieve "Biodiversity Gain" should be specified in the CEcoMP, the number of integral bird boxes should be increased in line with our recommendations and it is made a condition of the consent if granted.

We trust that we will be given the opportunity to review the above when it is available.

**DEVON COUNTY EDUCATION** - 14th November 2019 - Regarding the above application, Devon County Council has identified that the proposed increase of 105 family type dwellings will generate an additional 26.25 primary pupils and 15.75 secondary pupils which will have a direct impact on primary schools in Cullompton and Cullompton Community College. In order to make the development acceptable in planning terms, an education contribution to mitigate its impact will be requested. This is set out below:

#### Primary School Provision

A new primary school is proposed as part of the NW Urban extension which is necessary to ensure sufficient pupil places for children living within the town. The new primary school will be funded by development.

The development is required to contribute towards the delivery of the new primary school, and will therefore be required to pay the DfE new build rate of £16,019 per pupil (£4004.75 per dwelling, equating to £420,498.00 for this development). This request relates directly to providing education facilities for those living in the development.

#### Secondary School Provision

The designated secondary school for this development is Cullompton Community College. The school has no forecast spare capacity. Therefore, DCC will require a secondary education contribution. The contribution request is £345,255.00 (based on the 2015 DfE extension rate of £21,921 per pupil for Devon). This contribution would be used towards increasing capacity within the town.

#### Early Years Provision

In addition, a contribution towards Early Years provision would be needed to ensure delivery of provision for 2, 3 and 4 year olds. This is calculated as £26,250 (based on £250 per dwelling). This will be used to provide early years provision for pupils likely to be generated by the proposed development.

All contributions will be subject to indexation using BCIS, it should be noted that education infrastructure contributions are based on March 2015 rates and any indexation applied to contributions requested should be applied from this date.

The amount requested is based on established educational formulae (which related to the number of primary and secondary age children that are likely to be living in this type of accommodation). It is considered that this is an appropriate methodology to ensure that the contribution is fairly and reasonably related in scale to the development proposed which complies with CIL Regulation 122.

It should be noted that in accordance with the County Council's Education Infrastructure Plan, education contributions are required from all family type dwellings, including both market and affordable dwellings. Affordable housing generates a need for education facilities and therefore any affordable units to be provided as part of this development should not be discounted from the request for education contributions set out above. Such an approach would be contrary to the County Council's policy and result in unmitigated development impacts.

If this application reaches the stage of preparing a S.106, it is considered that the contribution can be allocated in accordance with the pooling regulations set out in the CIL Regulation 123.

In addition to the contribution figures quoted above, the County Council would wish to recover legal costs incurred as a result of the preparation and completion of the Agreement. Legal costs are not expected to exceed £500.00 where the agreement relates solely to the education contribution. However, if the agreement involves other issues or if the matter becomes protracted, the legal costs are likely to be in excess of this sum.

#### **NATURAL ENGLAND - 25.11.19**

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>

## **HOUSING ENABLING & BUSINESS SUPPORT MANAGER – 5<sup>th</sup> November 2019**

Current housing need for Cullompton provided.  
See document tab for details

### **DEVON, CORNWALL & DORSET POLICE - 11th November 2019**

As with the previous application associated with the site, (19/00118), I am unable to comment in depth as the Outline Masterplan does not at this time reveal many details that would be of concern to the police. It is appreciated that at this time it is for outline only, however, please note the following initial comments from a designing out crime, fear of crime, antisocial behaviour (ASB) and conflict perspective:-

The proposed 'pedestrian link' into Siskin Chase must not diminish the safety and security of any adjacent existing dwellings. Any path will require clear definition of public and private space and existing dwellings enhanced protection with for example, extra defensive planting and boundary treatments.

Too much permeability in a development makes controlling crime and anti-social behaviour very difficult as it allows easy intrusion around the development by potential offenders. All planned routes should be needed, well used by generating adequate footfall, well overlooked and well integrated. Research confirms that inappropriate access can create hiding places and give anonymity and legitimacy to offenders, enabling them to familiarise themselves with an area, search for vulnerable targets, offend and escape.

Crime is always easier to commit where there is little or no chance of an offender being challenged or recognised. Levels of anti-social behaviour will also be correspondingly high in designs that reduce residential influence and ownership. With this in mind,

If existing hedgerow is likely to comprise new rear garden boundaries then it must be fit for purpose. They should be of sufficient height and depth to provide both a consistent and effective defensive boundary as soon as residents move in. If additional planting will be required to achieve this then temporary fencing may be required until such planting has matured. Any hedge must be of a type which does not undergo radical seasonal change which would affect its security function. I would also advise that for all plots, private front gardens are suitably defined. Open frontage, particularly but not exclusively, on corner plots, can for many reasons frequently lead to community conflict, for example, desire lines for pedestrians and cyclists are created, dog fouling, ball games and anti-social behaviour.

Parking spaces would preferably be on plot, must not be disconnected from the associated dwellings and should be well overlooked by 'active rooms'. Residents should have line of sight to their allotted parking spaces, otherwise the burden of surveillance is placed upon neighbours and other residents. Regrettably, there is overwhelming evidence to suggest that unless a crime directly involves a member of the public, many will not intervene or report it for fear of repercussions.

Residents will also look to park as near to their choice of main access point, likely resulting in inappropriate parking on footpaths and verges.

## **REPRESENTATIONS**

45 letters of objection have been received summarised as follows:

- Ability of DCC to change their minds about the need for NW link road to be in place
- Concern over use of Siskin chase for more housing and construction traffic – safety issues, existing parking, narrowness of road
- Greater number of parking spaces required than shown
- Impact on all roads leading to motorway at rush hours
- Why go to great expense of producing a development plan and then not stick to it



- Dangerous levels of air quality in town at present
- J28 is at capacity
- Road surface in Siskin chase is already cracking and who will repair this
- Developers have said that they can't put access in from Colebrook lane as it's too marshy but why are they building houses there?
- Increased waiting times for doctors and dentists – increased pressure on services
- Colebrook lane wouldn't be suitable for access as it's a narrow rural lane
- Colebrook lane would be the most suitable access point
- Disturbance to bats and geese
- Concern over the accuracy of the documents submitted by the applicant and that they are biased. MDDC should commission their own reports and studies
- Overwhelming number of journeys made from the site will be by car
- Increased risk of flooding to existing properties
- Mud from builders traffic will be dragged onto the road
- Will inevitably lead to the development of the rugby club land

## **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

**The main issues in the determination of this application are:**

- 1) Principle of development**
- 2) S106 provisions**
- 3) Conditions**
- 4) Other material considerations**

### **Principle of development**

Members will be aware that a recent non-determination appeal at the same site for the same proposal was allowed subject to a s106 agreement and conditions. This is a duplicate application which was submitted prior to the determination of the previous application (19/00118/MOUT) and since submission, extensions of time have been agreed to await the outcome of that appeal decision.

Given that this is a duplicate application, it is not intended that this report should set out the full policy position again. The appeal was determined after the publication of the Inspectors report into the examination of the Local Plan Review. He concluded that 'considerable weight' should be attached to the policies contained within the LPR including removal of the 'contingency status' of this allocated site. The subsequent formal adoption of the LPR means that the policies now carry full weight in the determination of planning applications.

For clarification, policy CU21 states:

*A site of 4.8 hectares at Colebrook is allocated for residential development subject to the following:*

- a) 100 dwellings with 28% affordable housing;*
- b) Provision of two points of access from Siskin Chase;*
- c) Provision of 1.1 hectares of green infrastructure, to include the retention of land in the floodplain as informal amenity open space and for Sustainable Urban Drainage provision;*
- d) Measures to protect and enhance trees, hedgerows and other environmental features which contribute to the character and biodiversity, maintaining a wildlife network within the site and linking to the surrounding countryside;*
- e) Archaeological investigation and appropriate mitigation; and*

*f) Transport assessment and implementation of travel plans and other measures to minimise carbon footprint and air quality impacts.*

### **S106 provisions:**

During the appeal process, 2 separate and mutually exclusive s106 agreements (unilateral undertakings) were submitted to the Inspector for consideration with the appeal. The first (referred to as UU1 by the Inspector) set out all the provisions the LPA wished to see which included a requirement to contribute towards the delivery of the Town Centre Relief Road at £7,500 per property. The applicant disputed the need for this contribution within the appeal documentation and submitted a UU known as UU2 which included the following provisions:

- Up to 35% affordable housing provision on site

- The transfer of an area of land towards the northern boundary of the site to the LPA which would enable the Rugby Club land to be accessed from the site, should it be brought forward for development in the future

- The submission and adherence to a Travel Plan

- The provision of the required Education Contributions

- The provision of the required air quality contribution

- The provision and maintenance of public open space land

The Inspector had the ability to strike through any provisions he felt didn't accord with the CIL Regs but it was not within his power to add provisions into the agreement nor pick and chose between the provisions in each of the 2 agreements.

The Inspector concluded that UU2 complied with the CIL Regs in all respects except in relation to B) above and struck this out of the agreement.

With regards to affordable housing provision, he noted that the LPR policy CU21 required 28% on site provision whereas the Adopted Local Plan required 35%. He noted that a s106 which required the upper percentage would accord with the provisions of AIDP policy AL/CU/20 but that it would exceed the requirement of LPR (IR) policy CU21(a). However, he considered that there is an acute need for affordable housing within the district and therefore a figure in excess of 28% would satisfy the relevant tests for a planning obligation.

Through this planning application, the applicants are seeking to ensure that any consent is subject to a single, clear s106 agreement. They seek to include provisions C-F (inc) above. They are not seeking to include provisions relating to B) above and wish to ensure that the affordable housing requirement is tied down to a policy compliant 28% on-site provision.

Given the clear steer from the Planning Inspector and the very recent formal adoption of policy CU21 which stipulates 28%, your officers are recommending approval to this application subject to the prior signing of a s106 for the provisions set out at the head of this report.

### **Conditions:**

The appeal decision was subject to a number of conditions. Given that there is no difference between this application and the appeal application, the conditions set out at the end of this report, are those included in the Inspectors appeal decision letter. Members will note that they do not entirely duplicate those requested by consultees in their responses set out earlier in this report. However, consultees recommended conditions were forwarded to the Inspector by the LPA (on a without prejudice basis as part of the appeal requirements) to consider in the event of an approval

and the conditions set out below are those required by the Inspector. Given that there has been no material change in circumstances since the appeal, it is considered appropriate to use those conditions rather than those suggested by consultees.

**Other material considerations:**

The letters of objection received, raise no new issues and have been considered by the Planning Inspector in his decision.

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.

**CONDITIONS**

1. Details of the appearance, landscaping, layout and scale (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the Local Planning Authority before any development commences and the development shall be carried out as approved.
2. Application for approval of the reserved matters shall be made to the Local Planning Authority not later than three years from the date of this decision.
3. The development hereby permitted shall take place not later than two years from the date of approval of the last of the reserved matters to be approved.
4. The development hereby permitted shall be carried out in accordance with the following approved plans: 1:2,500 scale site location plan (ref. P17-0169 04 Rev A); 1:500 scale access arrangement (ref. 173040\_G\_02 Rev C); 1:250 scale north pedestrian access arrangement (ref. 173040\_G\_06); 1:250 scale Siskin Chase road access arrangement (ref. 173040\_G\_07) and; 1:500 scale southern pedestrian access arrangement (ref. 173040\_G\_08 Rev A).
5. The details required by condition 1 above shall include the following: existing and proposed site levels; finished floor levels; boundary treatments; the materials to be used on the external walls and roofs of the buildings; details of all areas of public open space, allotments and green infrastructure; details of all boundary trees and hedgerows to be retained and measures to protect these features during the construction phase, including engineering details and any electric vehicle charging points within root protection areas and; the works of ecological mitigation, compensation and enhancement set out within the EAD Ecology Ecological Impact Assessment dated December 2018.
6. Development shall not begin until details of the proposed drainage works, including the design of the proposed surface water drainage systems and the arrangements for adopting, managing, maintaining and inspecting

permanent surface water drainage systems, as well as the means of disposing of foul sewage from the site have been submitted to and approved in writing by the Local Planning Authority. The development shall be undertaken in accordance with the approved details/works/arrangements. No dwelling shall be occupied until means of disposal of foul sewage have been provided.

7. Development shall not begin until the developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved scheme, or such details as may be subsequently agreed in writing by the Local Planning Authority.
8. Development shall not begin until a site investigation and risk assessment has been carried out to determine the nature and extent of any land contamination that may be present within the site and the likely impact on receptors. A full report of the investigation and risk assessment shall be submitted to the Local Planning Authority for approval in writing. No work shall proceed on site until either the Local Planning Authority gives written consent for the development to commence or the requirements of condition 10 below are met.
9. Where actual or probable significant pollutant linkages are found following the investigation and risk assessment required by condition 8 above, the developer shall submit a remediation statement together with a timescale for the completion of the required works for approval in writing by the Local Planning Authority.
10. Following the completion of any works required by condition 9 above, a remediation validation report shall be submitted to the Local Planning Authority for approval in writing. No dwelling shall be occupied on those parts of the site affected by any land contamination until the validation report has been approved in writing by the Local Planning Authority.
11. No development shall begin until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority (LPA). The CEMP shall include:
  - A. the timetable of the works and a phasing plan;
  - B. daily hours of construction;
  - C. any road closure;
  - D. hours during which delivery and construction traffic shall travel to and from the site, with such vehicular movements restricted to between the hours of 08:00 and 18:00 Mondays to Fridays and 09:00 to 13:00 on Saturdays, with no such vehicular movements on Sundays or Bank/Public Holidays unless agreed in writing by the Local Planning Authority.
  - E. the number and size of vehicles likely to be visiting the site in connection with the construction phase(s) and the frequency of their visits;
  - F. the proposed route of construction traffic, including the temporary use of an access from Colebrooke Lane;
  - G. the compound/location where all building materials, finished or unfinished products, parts, crates, packing materials and waste will be stored and confirmation that no topsoil will be stored over 2 metres in height;
  - H. areas where delivery vehicles and construction traffic will load or unload

and confirmation that no construction traffic or delivery vehicles will park on the County Highway for loading or unloading, unless otherwise agreed in writing by the Local Planning Authority.

I. areas for the parking of vehicles used by site operatives, contractors and sub-contractors working at the site;

J. the means of enclosure during construction works;

K. details of wheel washing facilities and measures to prevent mud, water and other materials and liquids being deposited on the public highway;

L. photographic evidence of the condition of the adjacent public highway network prior to the commencement of works;

M. the steps and procedures to be implemented to minimise the creation and impact of noise, vibration, dust and waste disposal resulting from site preparation, groundwork and the construction phases;

N. measures to protect nature conservation interests, as set out in within the Ecological Impact Assessment by EAD Ecology dated December 2018 and the Technical Note dated 11 March 2019 also from EAD Ecology.

The development shall be undertaken in accordance with the approved CEMP.

12. No dwelling shall be occupied until details of the proposed estate roads, cycleways, footways, footpaths, verges, junction, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, road maintenance/vehicle overhang margins, embankments, visibility splays, accesses, car parking and street furniture have been provided and laid out in accordance with details previously submitted to and approved in writing by the Local Planning Authority.
13. No development shall take place until details of the layout and means of constructing the temporary construction access from Colebrooke Lane have been submitted to and approved in writing by the Local Planning Authority. Construction works shall proceed utilising the approved temporary access. Upon completion of the development this access onto Colebrooke Lane shall be retained as a secondary pedestrian/cycle connection to and from the development, as well as for use as an emergency vehicular

## **REASONS FOR CONDITIONS**

1. The application was submitted as an outline application in accordance with the provisions of Articles 4 & 5 of The Town and Country Planning (Development Management Procedure) Order 2010.
2. In accordance with the provisions of Section 92(2) of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004 however the timescales have been reduced to reflect the fact that the site is a contingency site and is being brought forward to increase the supply of housing.
3. In accordance with the provisions of Section 92(2) of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004 ever the timescales have been reduced to reflect the fact that the site is a contingency site and is being brought forward to increase the supply of housing.
4. For the avoidance of doubt and in the interests of proper planning

5. To enable the Local Planning Authority to consider whether adequate provision is being made for the matters referred to in the condition.
6. To ensure that surface water runoff and foul drainage from the development is managed and operates effectively for the lifetime of the development in accordance with the principles of sustainable drainage systems.
7. 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
8. In the interests of public health and the protection of the environment
9. In the interests of public health and the protection of the environment
10. In the interests of public health and the protection of the environment
11. To minimise the impact on the highway network and on nearby residential properties during the construction period.
12. To ensure that adequate information is available for the proper consideration of the detailed proposals.
13. To ensure the layout and construction of the access is safe in accordance with the National Planning Policy Framework.

### **REASON FOR APPROVAL OF PERMISSION**

The application site is allocated in the Local Plan Review 2013-2033 for the development of c.100 dwellings. The proposal is also subject of a recent appeal decision dated 9<sup>th</sup> July 2020 which was following the publication of the Inspectors report into the examination of the Mid Devon Local Plan Review 2013-2033 and therefore the Inspector gave considerable weight to the policies in that emerging document. Given that this is a duplicate application, there has been no material change in circumstances since the appeal except that the policies in the Mid Devon Local Plan Review 2013-2033 can be given full weight, the application is recommended for approval with a s106 agreement in accordance with the Planning Inspectors decision on application 19/00118/MOUT.

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

Application No. 20/00176/FULL

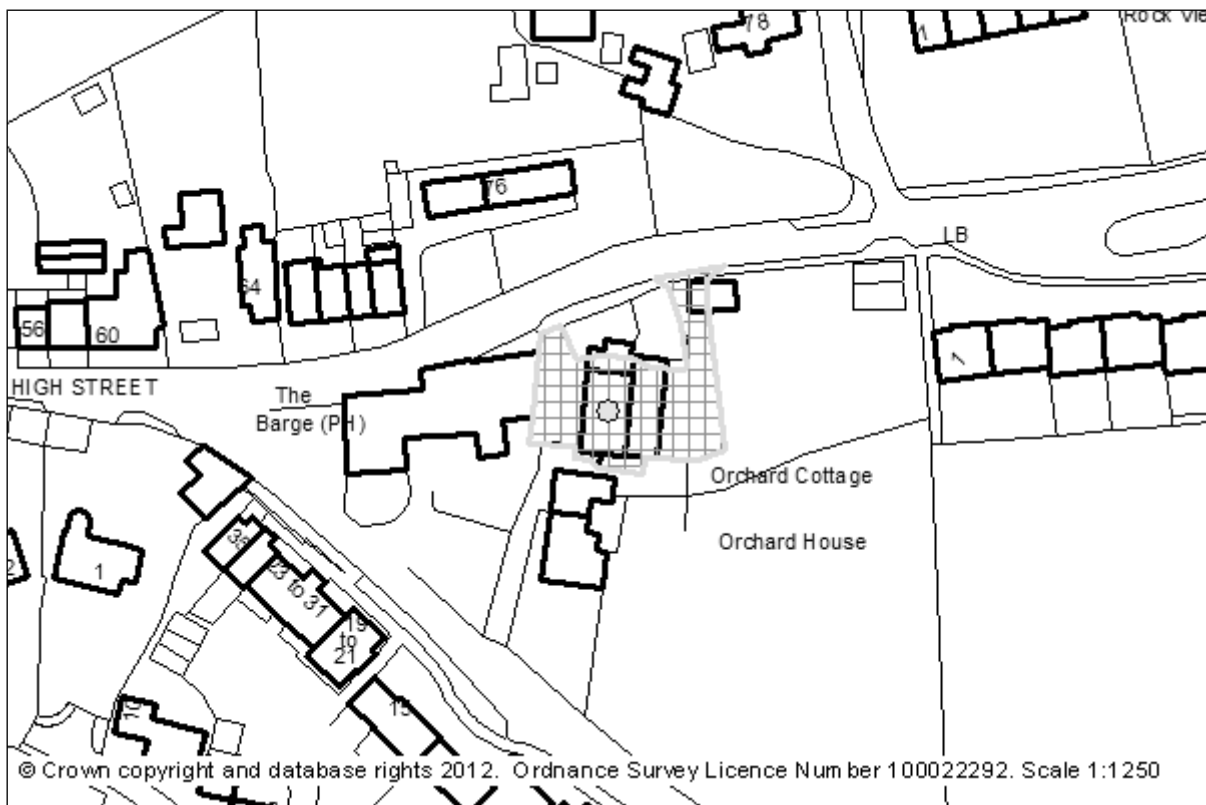
Grid Ref: 301238 : 112856

Applicant: Mr Richard Hallt, 3 Rivers Developments Ltd

Location: Land & Buildings at NGR 301235 112854  
(Orchard House)  
High Street  
Halberton

Proposal: Erection of dwelling following demolition of barn

Date Valid: 25th February 2020



## **APPLICATION NO: 20/00176/FULL**

### **RECOMMENDATION**

Grant permission subject to conditions

### **PROPOSED DEVELOPMENT**

Members may recall that they considered application 18/02024/FULL in early 2019 which dealt with various amendments to an approved scheme for the erection of 4 new dwellings and the conversion of an existing cob barn to a dwelling. The scheme also included the provision of a parking facility for nearby residents. This current application relates solely to the existing barn at the site and proposes its demolition and its subsequent replacement with a detached new-build dwelling.

The application site is located within the settlement limit of Halberton (to the east of the public house with access from High Street) and also within its Conservation Area. Work is currently underway on site and the 4 new dwellings have been erected.

The proposed dwelling would largely replicate the existing barn in terms of size and appearance and would accommodate 3 bedrooms.

### **APPLICANT'S SUPPORTING INFORMATION**

Ecological survey, additional information and letter from an ecologist

Design and Access Statement (including heritage assessment and FRA)

Letter from Structural Engineer plus additional supporting information including photos of the barn

### **RELEVANT PLANNING HISTORY**

17/00711/FULL - PERCON date 4th July 2017

Erection of 4 dwellings, conversion of barn to dwelling, parking and formation of new vehicular access

18/02024/FULL - PERCON date 13th June 2019

Variation of conditions 2, 5, 7, 8, 9, 10 and 15 of planning permission 17/00711/FULL. Non Material Amendment (19/01916/NMA) granted 02.12.19 - Non Material Amendment granted 11.03.20 (20/00237/NMA).

19/01916/NMA - PERMIT date 2nd December 2019

Non Material Amendment for 18/02024/FULL to allow for the rebuilding of North gable elevation to the barn

20/00176/FULL - PCO date

Erection of dwelling following demolition of barn

20/00237/NMA - PERMIT date 12th March 2020

Non-Material Amendment for 18/02024/FULL to allow change of cill materials from sandstone to slate

20/01111/NMA - PCO date

Non Material Amendment for 18/02024/FULL to change the rear garden boundary wall of the 4 houses to timber fencing

### **DEVELOPMENT PLAN POLICIES**

#### **Local Plan Review 2013-2033**

S1 - Sustainable development

S9 - Environment

S13 - Villages



DM1 - High Quality Design  
DM5 - Parking  
DM25 - Development affecting heritage assets

## **CONSULTATIONS**

### **HALBERTON PARISH COUNCIL - 16.03.20**

Halberton Parish Council objects to this application on the grounds that it will result in the loss of a barn of notable historic interest and be detrimental to the character of the conservation area. Concerns were raised as to why the building was not listed as it is in the curtilage of a listed building.

Further, given that the barn was in sufficiently good condition to be converted in the application 17/00711/FULL the Council would also enquire what steps 3 Rivers took to ensure that the existing barn did not degrade while it has been in their ownership.

The Council states that sufficient repairs should be carried out to the current structure so that the existing approved planning application (17/00711/FULL) can be acted upon.

The Council requests that this application be called-in on the grounds of loss of a barn of notable historic interest within a conservation area, should officers be minded to recommend approval.

### **HALBERTON PARISH COUNCIL - 27th May 2020**

Halberton Parish Council's objections to this application remain in place:

Halberton Parish Council objects to this application on the grounds that it will result in the loss of a barn of notable historic interest and be detrimental to the character of the conservation area. Concerns were raised as to why the building was not listed as it is in the curtilage of a listed building.

Further, given that the barn was in sufficiently good condition to be converted in the application 17/00711/FULL the Council would also enquire what steps 3 Rivers took to ensure that the existing barn did not degrade while it has been in their ownership.

The Council states that sufficient repairs should be carried out to the current structure so that the existing approved planning application (17/00711/FULL) can be acted upon.

The Council requests that this application be called-in on the grounds of loss of a barn of notable historic interest within a conservation area, should officers be minded to recommend approval.

### **Highway Authority - 2nd March 2020 - Standing advise applies**

<https://www.devon.gov.uk/planning/apply-for-planning-permission/get-help-with-an-application/guidance-for-applicants>

### **Highway Authority - 13th May 2020**

The County Highway Authority recommends that the Standing Advice issued to Mid Devon District Council is used to assess the highway impacts, on the above application.

**PUBLIC HEALTH** - Contaminated Land: No objection to this proposal. (27.02.20).

Air Quality: No objection to this proposal. (27.02.20).

Environmental Permitting: No objection to this proposal. (26.02.20).

Drainage: No objection to this proposal. (27.02.20).

Noise & other nuisances: No objection to this proposal. (27.02.20).

Housing Standards: No floorplans to comment on. (06.03.20).

Licensing: No comments. (26.02.20).

Food Hygiene: Not applicable. (26.02.20).

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. (26.02.20).

Health and Safety: Not applicable. (26.02.20).

**HISTORIC ENVIRONMENT TEAM** - 27th February 2020 - The Historic Environment Team has no comments to make on this planning application.

**NATURAL ENGLAND** - 09.03.20

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.

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>

**NATURAL ENGLAND** - 15 May 2020

Natural England has previously commented on this proposal and made comments to the authority in our letter dated 06 March 2020

The advice provided in our previous response applies equally to this amendment although we made no objection to the original proposal.

The proposed amendments to the original application are unlikely to have significantly different impacts on the natural environment than the original proposal.

Should the proposal be amended in a way which significantly affects its impact on the natural environment then, in accordance with Section 4 of the Natural Environment and Rural Communities Act 2006, Natural England should be consulted again. Before sending us the amended consultation, please assess whether the changes proposed will materially affect any of the advice we have previously offered. If they are unlikely to do so, please do not re-consult us.

## **REPRESENTATIONS**

2 letters of comment have been received from the occupier of the adjacent dwelling which is a listed building, summarised as follows:

Disappointed at loss of barn

Loss of barn could have been avoidable if more protection of it had taken place

All new stonework should be in keeping with adjacent listed building

Brick is not an appropriate material for the boundary wall between the site and the adjacent stone listed building.

## **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

**The main issues in the determination of this application are:**

**Principle of Development**

**Demolition of barn**

**Heritage asset issues and the design of the new dwelling**

**Other material considerations**

### **1) Principle of development**

The site is located within the settlement limit of Halberton and permission has previously been granted for a dwelling on the site by way of the conversion of the existing barn which is of traditional construction and appearance. The conversion of the barn under the approved scheme would result in a 2 bedroom dwelling. Given the sites location in the settlement limit, the principle of a dwelling on the site is acceptable. However, given that the building is located within the Conservation Area and is proposed for demolition, the impact of the development on the heritage asset and the character and appearance of the Conservation Area are material to the determination of this application

### **2) Demolition of barn**

When the original application was determined in 2017, the structural survey advised that the building was capable of conversion with the most notable work being to ensure the north gable and west gable (which had separated) were tied with stainless steel ties and that exposed cob on the walls should be rendered with a lime render. A condition was applied to the consent requiring the submission of a scheme to stabilise and convert the building. This condition (13) was also applied to the 2018 revised application. These details (by way of a letter from a structural engineer) were subsequently submitted to discharge the condition.

In December 2019 a non-material amendment was approved to allow for the rebuilding of the north gable wall. The submitted structural information advised that:

*'Now that the dilapidated lean-to roof structures have been removed, we have been able to assess the suitability of the masonry and cob structure for retention. Several large cracks are present in the wall resulting in a significant loss of structural integrity. The wall is considered to be unstable and relies heavily on the propping action provided by a temporary buttress wall and the existing*

*electricity pole at either end. It is highly likely that sections of the end elevation wall would collapse if these existing features weren't present. We consider that the north elevation wall has reached the end of its serviceable life and, as such full reconstruction is required.'*

The structural information submitted with the current application advises:

*'The recent collapse of the end (north) elevation wall is cause for serious concern and demonstrates the unpredictable behaviour of the barn walls in their current condition. Now that we are able to inspect sections of the collapsed cob remains, we are particularly concerned over the significant moisture content contained within the overall make-up. It is now very apparent that sustained water ingress through the head of the cob and masonry elevation walls has had a far greater detrimental effect on the integrity of the structure than originally thought'*

A letter submitted with the application from the applicants Health and Safety consultants advises:

*'We believe that the building has the potential to cause fatality should it collapse and people are in close proximity at the time, we would therefore recommend that the structure is taken down in a controlled manner so the risk has been eliminated'*

NMD Building Control have been consulted on the application. The Senior Building Control Surveyor has read the submitted information. He has confirmed that the report sets out a robust argument for the removal of the building, given its current state. He confirms that their case is well put together and well-reasoned and that on balance, his view would be that on balance, the building is now beyond economic repair and should be demolished now that it is in the state it is.

The Parish Council have expressed concern about the need for the demolition of the barn. They are concerned that the barn was in sufficiently good condition to be converted in the application 17/00711/FULL and have asked what steps the applicant took to ensure that the existing barn did not degrade while it has been in their ownership.

This issue is the crux of this application – has there been a wilful lack of maintenance which has led to the need to demolish the barn? The applicants have provided the following written information:

*'Planning permission for this development was granted on 13.06.19. As part of this application... we included annotated drawings from our structural engineers, showing the extent of the recommended structural works to the barn, which included retaining a 2m section of the existing buttress wall to the NE corner of the barn, to provide ongoing support to that area prior to a final structural solution being proposed.'*

*The dilapidated lean-to structures to the North and East elevations were carefully removed by 12th July 2019 as part of the enabling works for the overall development, as both of these hindered the construction of the entrance, the access road, drainage as well as the formation of the welfare/compound area at the beginning of the project. The section of buttress wall was indeed left in place during this period and indeed still stands as of today's date.*

*Further works to the barn along with the other building works were then not advanced in order to comply with Condition 12 of the Permission, which states the entrance road, drainage etc needs to be completed prior to the other works commencing.*

*The main works inc those to comply with Condition 12 were commenced on 23.07.19, with the Condition 12 works being completed for discharge on 29.10.19.*

*We then continued on with the new build works for the 4no new houses, and also continued looking at the works to the barn.*

*We felt it necessary to involve our structural engineer for an additional inspection of the barn in general, but particularly the North gable, as this had always been the area most in need of repair.*

*Following this additional visit on 13.11.19, our engineers provided their initial verbal recommendations to us which was to proposed that the North Elevation was carefully taken down and re-constructed in a rendered wall to provide stability to rest of the barn. The proposal included the careful support and propping of the remainder of the structure whilst these works were being undertaken. We therefore submitted our NMA on that same day (13.11.19) with the full written report being received on 25.11.19.*

*We then received the approval of the NMA on Monday 02.12.19, ironically the day after a large section of the North gable had collapsed.*

*As stated above, the only works carried out to the barn was the removal of the dilapidated lean-to structures that were providing no structural support or weatherproofing to the main barn structure.'*

On balance, it is considered that there isn't sufficient evidence to suggest that there has been a wilful neglect of the building such as to now necessitate the demolition of the barn. Examination and consideration of the supporting information submitted suggests that the building is now beyond reasonable repair and that demolition is now the pragmatic option.

### **3) Heritage asset issues and the design of the new dwelling**

The application site is within the Halberton conservation area and within the setting of a grade 2 listed building. This barn is noted as being an 'important unlisted building' which makes a positive contribution to the character and appearance of the conservation area in the Conservation Area Assessment and has clear associations with, and significance with regard to, the stone listed building it is adjacent to. The Parish Council have asked why the building was not listed in its own right as it is in the curtilage of a listed building. The Halberton Conservation Area Appraisal is dated March 2006 and an assessment would have been carried out at that time to determine its status. There are various factors which need to be considered when determining whether a building is 'curtilage listed' including whether it is truly in the curtilage of the main building and its ownership status at the time of listing. It would appear that a decision was taken at that time that the barn did not fall within the curtilage of Orchard House and therefore is not deemed to be listed.

However, as set out above, the barn clearly has an association with the adjacent listed building. The starting point for the considering of applications which affects a listed building or its setting is the statutory requirement on local planning authorities to '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' (section 66).

Section 72 of the Act requires that special attention shall be paid in the exercise of planning functions to the desirability of preserving or enhancing the character or appearance of a conservation area.

The Court of Appeal has made it absolutely clear that the statutory duties in relation to sections 66 and 72 do not allow a local planning authority to treat the desirability of preserving the settings of listed building and the character and appearance of conservation areas as mere material considerations to which it can simply attach such weight as it sees fit. When an authority finds that a development would harm the setting of a listed building or character or appearance of a conservation area, it must give that harm considerable importance

and weight. Finding of harm gives rise to a strong presumption against planning permission being granted. This presumption is a powerful one, but not irrefutable. It can only be outweighed by material considerations powerful enough to do so.

Applicants 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.

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. This approach is reinforced by policy DM25 and it requires development proposals likely to affect heritage assets and their settings, including new buildings, alterations, extensions, changes of use and (most relevant to this application) 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.

There are two issues here relating to heritage assets: The demolition of an unlisted (but important) building in the Conservation Area, and the design of the new building.

The Conservation Officer has expressed concern that the building was visited by a structural engineer in 2017 and again as recently as November 2019 when the NMA was submitted to rebuild the north wall and that neither of these surveys identified any defects in the rest of the building, and he questions how the building has deteriorated so quickly in the two months since the SE report in November 2019 and the lodging of this application at the end of January 2020 so as to justify its total demolition. This issue is discussed above.

In terms of the design of the new building, the existing barn is on two levels, with a split level to the ground floor and the approved conversion formed a 2 no. bedroom dwelling. The current application proposes a level ground floor and adds additional accommodation in the roof for the entire length of the building creating a 3 bedroom dwelling.

The Conservation Officer had significant concerns in respect of the initial design of the proposed dwelling, commenting that *'the 2017 approval...was noted as respecting the simplicity and historic qualities of the barn, and this current proposal shows no opening in the barn unchanged. Only one, the large opening on the west elevation is broadly similar, otherwise there are a large number of non-barn like openings (in terms of their size and position). Extra roof lights are required due to additional accommodation on the first floor. Indeed all the changes are justified to suit the internal layout of the building ... This suggests a building which is designed from the inside out, and largely not to respond to the particular constraints of the site.'*

Negotiations have taken place with the applicant to amend many aspects of the proposal including the external materials, the location, size and detail of window and door openings, details of the boundary treatment with the listed building and the location of rooflights.

The Conservation Officer has advised that with the revisions which have been negotiated, with include the provision of a stone boundary wall between the site and the curtilage of the listed building, he is satisfied that the proposed dwelling itself would not detract from the character and appearance of the Halberton Conservation Area. He has advised that this is on the basis that the

case has been adequately made for the demolition of the barn and Members are referred back to the officer view on this in the section above.

#### **4) Other material considerations**

The submitted Ecological Assessment is considered to be out of date. However the applicant has confirmed that it has been engaging with Natural England in respect of gaining a license from them and they have confirmed that said licence was received in Feb 2020.

The letter of objection received related to (in the main) the materials for the boundary between the site and the adjacent listed building. The letter set out that a stone wall would be the most appropriate material and members are advised that the scheme has been revised so that a stone wall is indeed proposed.

The scheme is unchanged in terms of its overall layout and parking provision from the previous consent.

There are not considered to be any impacts in terms of amenity of neighbouring properties.

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.

#### **Summary:**

The site is located within the settlement limit of Halberton where new build residential development is acceptable in principle. In this instance the site is also within the Halberton Conservation Area and the existing building is considered to be an 'important unlisted building' in the Halberton Conservation Area Appraisal. Examination and consideration of the supporting information submitted suggests that the building is now beyond reasonable economic repair and that demolition is now the pragmatic option. In terms of the replacement building, this has been the subject of negotiations to ensure that the building more closely resembles the existing and has materials and detailing which is appropriate to its location in the Conservation area and adjacent to a grade 2 listed building. On this basis, and in the absence of any adverse impacts in terms of amenity, ecology or parking the proposal is considered to comply with Policies S1, S9, S13, DM1, DM5 and DM25 of the Mid Devon Local Plan Review 2013-2033

#### **CONDITIONS**

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice.
- 3) No above ground works shall begin until a sample panel of between 1 and 2 square metres in size of the proposed stone, (indicating colour, texture, pointing, mortar and coursing), to be used for the external walls of the buildings and the boundary between the site and

Orchard House hereby permitted has been provided on site for inspection and agreed in writing by the Local Planning Authority. Stonework shall be laid on its natural bed and constructed in accordance with the approved sample panel. Such approved materials shall be so used and retained.

- 4) No above ground works shall begin until samples of the materials to be used for all the external surfaces of the building(s) have been submitted to and approved in writing by the Local Planning Authority. Such approved materials shall be so used and retained.
- 5) The approved boundary treatment (referred to in condition 3 above) shall be completed prior to the first occupation of the dwelling and thereafter shall be so retained.
- 6) Notwithstanding the provisions of Article 3 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), (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 and F of Part 1, or Class A of Part 2 of Schedule 2 relating to the enlargement, improvement or other alteration of a dwellinghouse, addition or alteration to the roof, erection of a porch outside any external door, provision within the curtilage of the dwellinghouse of any building or enclosure, swimming or other pool, container for domestic heating purposes for storage of oil or liquid petroleum gas, provision of a hard surface or the erection of a gate, fence wall or other means of enclosure, shall be undertaken within the application site without the Local Planning Authority first granting planning permission.
- 7) All telephone, electricity and mains gas services to the building shall be placed underground.

## **REASONS FOR CONDITIONS**

1. In accordance with the provisions of s51 of the Planning and Compulsory Purchase Act 2004
2. For the avoidance of doubt and in the interest of proper planning
3. To ensure the use of stone, mortar, coursing and pointing appropriate to the development in order to safeguard the character and appearance of the conservation area in accordance with Policy DM25 of the Mid Devon Local Plan Review 2013-2033
4. 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 Policy DM25 of the Mid Devon Local Plan Review 2013-2033
5. In order to safeguard the amenities of the adjoining occupier in accordance with Policy DM1 of the Mid Devon Local Plan Review 2013-2033
6. The proposed dwelling has been designed to closely reflect the existing barn on the site which is considered to be an important unlisted building in the Conservation Area. Uncontrolled additions or extensions to the building could detract from the character and appearance of the building and the wider conservation area and as such it is considered appropriate to remove permitted development rights in this instance, in accordance with Policy DM25 of the Mid Devon Local Plan Review 2013-2033
7. In order to safeguard the historic visual amenity of area in accordance with Policy DM25 of the Mid Devon Local Plan Review 2013-2033



## **INFORMATIVES**

No restriction on working hours has been applied to this consent, given the current Government advice surrounding Covid-19 restrictions. However, the developer is advised to be mindful of the close proximity of neighbouring properties when carrying out work at the site.

## **REASON FOR APPROVAL OF PERMISSION**

The site is located within the settlement limit of Halberton where new build residential development is acceptable in principle. In this instance the site is also within the Halberton Conservation Area and the existing building is considered to be an 'important unlisted building' in the Halberton Conservation Area Appraisal. Examination and consideration of the supporting information submitted suggests that the building is now beyond reasonable economic repair and that demolition is now the pragmatic option. In terms of the replacement building, this has been the subject of negotiations to ensure that the building more closely resembles the existing and has materials and detailing which is appropriate to its location in the Conservation area and adjacent to a grade 2 listed building. On this basis, and in the absence of any adverse impacts in terms of amenity, ecology or parking the proposal is considered to comply with Policies S1, S9, S13, DM1, DM5 and DM25 of the Mid Devon Local Plan Review 2013-2033

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

Application No. 20/00879/HOUSE

Grid Ref: 296435 : 114057

Applicant: Mr Peter Bridges

Location: 31 Banksia Close  
Tiverton  
Devon  
EX16 6TT

Proposal: Retention of decking and gazebo in rear garden and raised fence

Date Valid: 18<sup>th</sup> June 2020



## **APPLICATION NO: 20/00879/HOUSE**

### **MEMBER CALL-IN**

Councillor Colin Slade has called this into committee for the following reason:

1. The development is not appropriate for the setting and is detrimental to the amenity of the neighbouring property.

### **RECOMMENDATION**

Grant planning permission

### **PROPOSED DEVELOPMENT**

The applicant seeks planning permission for the retention of decking and gazebo in rear garden and raised fence at 31 Banksia Close, Tiverton

### **RELEVANT PLANNING HISTORY**

00/00597/FULL - PERMIT date 19th June 2000

Change of use of open space/landscape area to form extension of residential curtilage

90/00289/FULL - PERMIT date 2nd October 1992

Erection of 61 dwellings, access roads, landscaping and open space

94/00133/FULL - PERMIT date 7th June 1994

Erection of 41 dwellings with associated roads and sewers

### **DEVELOPMENT PLAN POLICIES**

#### **Mid Devon Local Plan Review 2013-2033**

S1 – Sustainable development priorities

S9 – Environment

S10 - Tiverton

DM1 – High Quality Design

DM11 – Residential extensions and ancillary development

### **CONSULTATIONS**

#### **Tiverton Town Council** – 6th July 2020

Tiverton Town Council is concerned that the decking and gazebo are too high and therefore is intrusive to the neighbouring property. It is suggested that some modifications could be made to the decking so that both decking and gazebo are not so high, and therefore not an intrusion on neighbours

#### **Highway Authority** – 3rd July 2020

No comments

#### **Environment Agency** - Standing advice – flood zone 1

## **REPRESENTATIONS**

One letter of objection has been received from a neighbour. The comments received are summarised as follows:

13. The decking is excessively high
14. Due to the decking being built so high we feel we are substantially overlooked by people when they are on the decking.
15. Because of its height voices and conversations travel more easily
16. The decking means loss of privacy and light pollution to the upstairs bedroom window
17. Feel the decking should be lowered to 300mm

## **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

**The main issues in the determination of this application are:**

- 5. Impact on neighbours**
- 6. Impact on character and appearance of the area**

### **1. Impact on neighbours**

The application seeks approval for the retention of raised decking, an enclosed gazebo building and section of extended boundary fence in the rear garden of No31 Bankia Close, Tiverton.

The raised decking is located at the end of the garden and covers a ground area of approximately 30 square metres. The octagonal gazebo building has been constructed on top of the decking and is located adjacent to the western boundary with the neighbour. The section of extended fence is located on the same western boundary and extends south from the end of the garden.

Paragraph 127(f) of the NPPF states that developments should create a high standard of amenity for existing and future users. This is reflected in Policy DM1 of the Local Plan Review 2013-2033 which states that proposals should not have an unacceptably adverse effect on the privacy and amenity of the proposed or neighbouring properties and uses.

Policy DM11 states that extensions and other ancillary development will be permitted provided they will not have a significantly adverse impact on the living conditions of occupants of neighbouring properties. The height of the raised decking is 750mm above ground level at its highest point adjacent to the boundary with the neighbour to the west. The height of the gazebo building on the decking is 2750mm; 3500mm from ground level. The height of the extended fence is 2500mm extending back 7250mm from the northern boundary.

Concerns have been raised from the occupiers of the neighbouring property at No30 that the decking and gazebo building at their current heights are adversely affecting their living conditions due to excessive noise associated with the use of these structures and loss of privacy through overlooking of a first floor rear bedroom window. It is understood that the applicant extended the height of the fence in an attempt to mitigate the impact. The neighbour does not raise any objection to the extended fence line.

Where the fence has been raised it removes overlooking of the neighbours garden and the ground floor living areas of that property from the deck and from within the gazebo building. Neither the gazebo building nor extended fence is considered to be significantly overbearing or resulting in any significant loss of light for the occupiers of No30. There is a line of vision from the garden of No31 to

the first floor window in No30 however it is at an oblique angle and the window is on the opposite side of the rear wall.

It is not considered that the current arrangement has an unacceptably adverse affect on the privacy and amenity of the neighbouring property. Subject to a condition requiring the extended fence to remain at the current height the application is considered to accord with policies DM1 and DM11 of the Local Plan Review 2013-2033.

If planning permission were to be refused for this application then the raised decking, gazebo and fencing would have to be lowered to heights not exceeding permitted development. If this were to occur then the height of the deck comparable to the height of the fence would actually be higher under permitted development than under the application proposal by approx. 50mm.

#### **6. Impact on character and appearance of the area:**

Policy DM11 permits extensions to existing dwellings and other ancillary development provided that they respect the character, scale, setting and design of existing dwellings and do not result in over-development of the dwelling curtilage.

The raised decking and gazebo building are located in the rear garden of the property against the backdrop of mature trees. The decking is considered acceptable in visual terms. The gazebo building despite being raised off natural ground level does not dominate the garden. Both the elements appear to have been constructed using good quality materials and are finished with a dark brown timber stain. The extended fence is seen in the context of other development in the rear gardens and boundary fences of differing heights.

The proposed development is not considered to adversely affect the appearance of the area. No conflict with Policy DM11 has been identified.

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.

#### **SUMMARY/REASON FOR APPROVAL**

The development to be retained is considered acceptable in policy terms. It is not considered that the development has an unacceptably adverse affect on the privacy and amenity of the neighbouring property or adversely affects the character and appearance of the area. There are no highways implications. As such the proposal is considered in accordance with the Mid Devon Local Plan Review 2013-2033 Policies S1 S9, S10, DM1 and DM11 and the advice contained in the National Planning Policy Framework.

#### **CONDITIONS**

1. The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice.
2. The fence as detailed on the approved drawing 'Fence Side Elevation' shall be maintained at the heights shown.

## **REASONS FOR CONDITIONS**

1. For the avoidance of doubt and in the interests of proper planning.
2. To prevent overlooking and loss of privacy for the occupiers of the adjoining property, in accordance with Policies DM1 and DM11 of the Mid Devon Local Plan Review 2013-2033.

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

Application No. 20/00594/MFUL

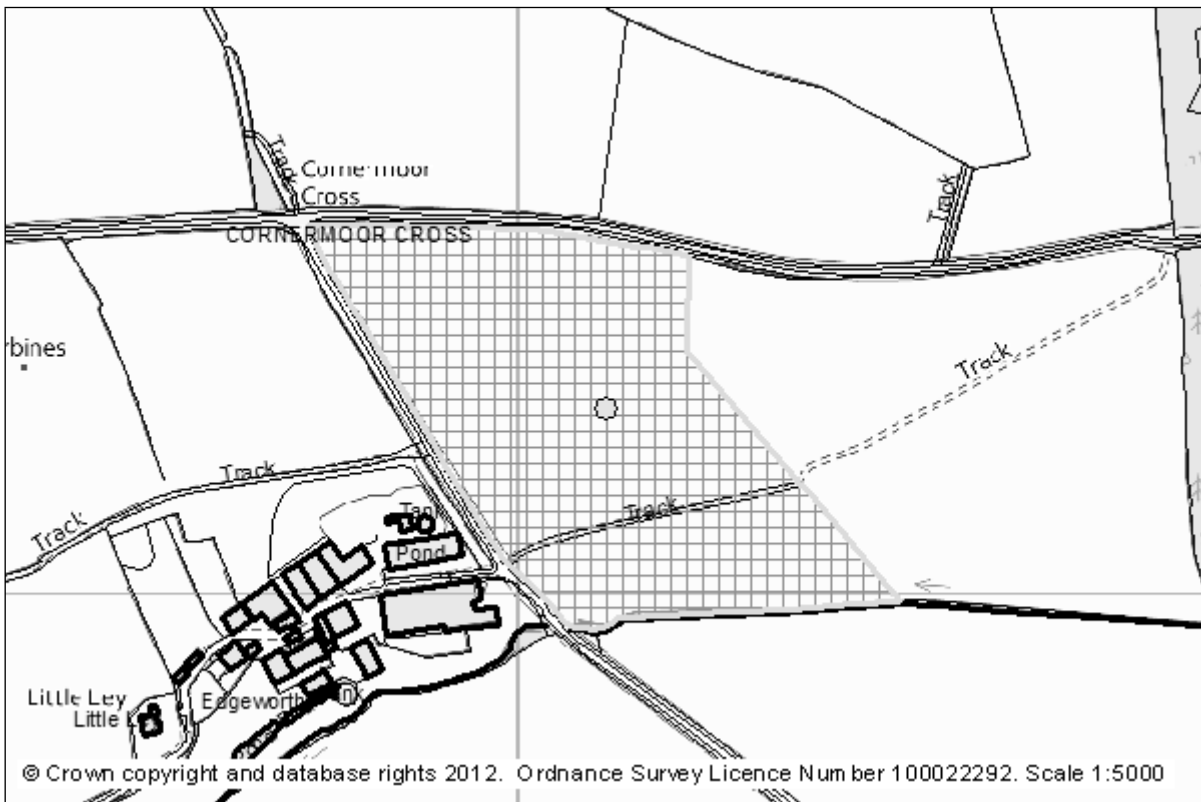
Grid Ref: 285047 : 114125

Applicant: Mr P Lake

Location: Land at NGR 285042 114106 (Edgeworthy Farm)  
Nomansland  
Devon

Proposal: Erection of 5 poultry units; biomass boiler unit; attenuation pond; access track; hardstanding; landscaping and associated infrastructure

Date Valid: 22nd April 2020



## **APPLICATION NO: 20/00594/MFUL**

### **REASON FOR CALL-IN**

This is a major application which is EIA development

### **RECOMMENDATION**

Grant permission subject to conditions

### **PROPOSED DEVELOPMENT**

The application seeks planning permission for the erection of 5 poultry units; biomass boiler unit; attenuation pond; access track; hardstanding; landscaping and associated infrastructure on land at NGR 285042 114106 (Edgeworthy Farm), Nomansland.

This is the same development as was approved under planning permission 15/01611/MFUL in 2016 but was not implemented. As almost five years has elapsed since the original statement and its supporting surveys have been produced, the applicant's agent confirmed it has therefore been necessary to review those surveys submitted and the following work was undertaken as a result and submitted with this application:

- Highways Technical Note
- Plant Noise Assessment (which includes road traffic noise)
- Flood Risk Assessment and Drainage Strategy
- A review of the Ecological Appraisal work.

In terms of the site, the development is on agricultural land covering approximately 5.4 hectares in area, parallel to the unclassified access road from the B3173 to Cornermoor Cross approximately 1.8 kilometres east of Nomansland. The field is on the opposite side of this road to Edgeworthy Farm.

The description of development is as follows:

- Each of the five poultry rearing sheds shall measure 80 metres in length by 12.6 metre width. This gives a floor area of 1008 square metres per building. The proposed eaves height of 2.9 metres and a maximum ridge height of 4.2 metres. The sheds are to be constructed using a steel frame system with a timber roof structure to support a pitched roof. The buildings will stand 2.9m to eaves. Walls will be insulated panels and will extend to 1 metre above ground level, incorporating polycarbonate sections, with an open section above. Double opening doors are proposed in each gable end and underground tanks are proposed to hold dirty water which is collected from the clean out of each shed. Each shed will set a concrete base with apron beyond the building dimensions
- A Biomass plant room designed with a mono pitch roof with dimensions 11.4 metres by 3.8 metres with a maximum height of 5.8 metres.
- Two feed silos are proposed at the end of each shed. They will have a footprint of 3.5 metres by 3.5 metres with a height of just less than 7 metres.
- A small site office building is proposed with a gable roof. The dimensions of which are 6 metres by 3 metres and just under 3 metres in height.
- An attenuation pond is proposed beyond the southernmost poultry shed close the south west boundary. This shall measure 7 metres in width and 20 metres in length.



A total of 60,000 birds are to be housed across the five sheds which will operate on a 56 day cycle, ten days between cycles reserved for the cleaning of the sheds. This equates to no more than six cycles per year. The proposed poultry sheds will generate waste equivalent to 120 tonnes per cycle, or 820 tonnes each year.

The proposal will result in the generation of additional vehicle trips using the public highway. For each cycle (of up to 66 days) the total number of vehicular trips that can be expected to arrive and depart from the site per cycle is set out below:

- At the beginning of each cycle, there would be two deliveries to the site for the delivery of chicks from the hatchery in Kentisbere. These deliveries would be undertaken over two days, generating one trip to the site per day or two vehicular movements per day (4 vehicular movements per cycle).
- Up to ten articulated vehicles delivering feed to the site throughout each cycle. This will generate a maximum of two vehicular trips to site each week (20 vehicular movements per cycle).
- It is expected there would be nine loads required to transport birds to the processing plant at the end of each cycle, generating nine trips. This is to be undertaken overnight as is the case with the existing poultry activity at Menchine. However, it should be noted that the farmer has no control over these collection times because they are set by the processing plant's requirements (18 vehicular movements per cycle).
- At the end of the cycle, cleaners would visit the site to clear, wash and disinfect the sheds. Over a period of two days they will use a 12 metre rigid HGV to transport their equipment onto site, resulting in a maximum of two trips (4 vehicular movements per cycle).
- A tanker will transfer waste water from the holding tanks after clean out resulting in an additional two vehicular movements (2 per cycle).
- Vets and maintenance teams are expected to visit the sheds with three trips (6 movements per cycle). In addition, a site manager will also generate an additional but small number of movements.
- There will be three deliveries of bedding per year and 12 deliveries of wood chip to run the boiler heating system (30 movements per annum).
- In each cycle there will be nine deliveries of poultry litter from Edgeworthy Farm to the Menchine Farm AD plant to be used as feedstock. This equates to fifty four deliveries annually.

Edgeworthy Farm is in a convenient location close to the existing Anaerobic Digester at Menchine Farm. At the end of each flock cycle the buildings are cleared and the manure/poultry litter will be removed using bobcat type machines and transported to the existing AD plant at Menchine Farm for processing. The estimated tonnage of waste produced per cycle per shed is 24 tonnes per shed. As such this equates to 120 tonnes per cycle. The load carrying capabilities of the trailers which will be designated for the transportation of waste from Edgeworthy Farm to Menchine Farm are trailers and tractors with the capacity to hold 14 tonnes per load. Therefore, at the end of each cycle there would be up to nine tractor and trailer movements associated with the movement of waste between Edgeworthy Farm and Menchine Farm. Trailers would be sheeted during transport.

Two other applications for identical proposals at Menchine Farm and Gibbet Moor Farm were submitted in 2015 and approved with the previously approved scheme for the site was considered in light of these. It was noted that the waste generated by all of the submitted schemes is proposed to be transported to Menchine Farm and used as feed stock to operate the AD plant. Each of the three applications were submitted individually although they are all submitted on behalf of the Greener for Life group (GFL).

Regarding additional vehicle movements along the highway network, Devon County Council Highway Authority has considered the application on the basis of a worst case scenario that the

vehicle movements generated as a result of the new poultry sheds would be additional. Even on this basis the Highway Authority has concluded that the number of movements (notably from HGVs) would be a small overall increase in use of the public highway which would not result in severe or unacceptable impacts to warrant the refusal of the application. This is discussed in turn, below.

## **APPLICANT'S SUPPORTING INFORMATION**

Statement of Community Engagement  
Drainage Information  
Erratum Notice  
Wildlife Checklist  
Addendum to Historic setting assessment  
Design and Access Statement  
Environmental Statement - Non Technical Summary  
Heritage Desk Based Assessment  
Planning Statement  
Environmental Statement Vol 1  
Environmental Statement Vol 2  
Environmental Statement Vol 3  
EA screening report Land at NGR 285047 114124 (Edgeworthy Farm) Nomansland Devon  
Highways Technical Note  
Plant Noise Assessment (which includes road traffic noise)  
Flood Risk Assessment and Drainage Strategy  
A review of the Ecological Appraisal work.

## **RELEVANT PLANNING HISTORY**

15/00869/SCR - CLOSED date 23rd June 2015  
Environmental Impact Assessment Screening Opinion for the erection of 5 poultry sheds

15/01611/MFUL - PERCON date 19th January 2016  
Erection of 5 poultry units (5040 sq. m) and biomass boiler unit; formation of attenuation pond, access track, and hardstanding; landscaping; and associated infrastructure

## **DEVELOPMENT PLAN POLICIES**

### **Mid Devon Local Plan Review 2013-2033**

S1 - Sustainable development priorities  
S6 – Employment  
S8 - Infrastructure  
S9 - Environment  
S14 - Countryside  
DM1 - High quality design  
DM2 - Renewable and low carbon energy  
DM3 - Transport and air quality  
DM4 - Pollution  
DM5 - Parking  
DM20 - Agricultural development  
DM28 - Other protected sites

National Planning Policy Framework 2019

Devon County Waste Plan 2014.

## **CONSULTATIONS**

### **Thelbridge Parish Council** - 27th May 2020

At the Parish Council video conference meeting on 27th May, concerns were expressed about the out of date and contradictory information in the application. Whilst Templeton would be most affected by smell from the proposed operation, depending on wind direction Nomansland would also be impacted.

### **Puddington Parish Council** – 7th May 2020

Puddington Parish Council have no objections to this application.

### **Cheiton Fitzpaine Parish Council** – 21st May 2020

Comments: Noted

### **Cruwys Morchard Parish Council** – 18th May 2020

Cruwys Morchard Parish Council recommends refusal of the above application for the following reasons:

1. Since similar local developments have occurred over the past several years as suspected the volume of heavy lorries had increased
2. The lorries used to and from these facilities have increased in size.
3. The roads used for deliveries have deteriorated extremely badly and the Highways department can't keep up with the repairs.
4. The traffic plan with this application is the same plan used 5 years when the planning was originally put forward, therefore no notice has been taken of any consequences to other Anaerobic digesters in the parish/ local area.
5. Hedgerows have been damaged by the oversize lorries and nothing done to repair them.
6. This plan does not deal with green energy as expected.

### **Templeton Parish Council** - 18th May 2020

Templeton Parish Council wish to respond as follows:

- Vehicle parking. Does the site have existing parking or will the development add or remove parking, or will the developers not put parking in?
- Foul sewage. We would like clarification on the 'foul sewage' question that has not been addressed. It is unknown what will be done with the existing drainage bearing in mind there are a large number of birds involved.
- There is no indication on the planning paperwork to clarify if the birds are being reared for human consumption or pet food. It is felt there is an animal welfare issue if birds are being reared to obtain manure for the digester.
- No operating hours stipulated.
- This will be one of three of these sites in a triangle in half a mile.
- Concern was raised about ammonia coming off the plant, especially with a predominant South Westerly wind, this it could affect residents in Templeton properties.

- What is DCC Highways' assessment of the increase in traffic and does DCC Highways have any plans to repair the East/West road past Edgeworthy which has now been closed to traffic (though still used by tractors and trailers). There is concern that the increase in traffic will lead to more damage to the road through Nomansland, the other half of the closed section. The use of Menchin AD should be either mandated (and catered for in a transport statement), OR an alternative AD is mandated with suitable statement), OR permission is sought to use the onsite AD, so only feedstock and resupply come in). The Parish Council would not find the use of chicken litter 'field heaps' acceptable.
- We do have concerns as to how many such enterprises can be sustained in our environment. When is too many?

### **Templeton Parish Council** – 25th July 2020

Templeton Parish Council wish to respond as follows:

Foul sewage.

We would like clarification on the 'foul sewage' question which has not been addressed.

It is unknown what will be done with the existing drainage considering the large number of chickens involved.

Operating hours should be stipulated and conditioned.

We do have concerns as to how many and similar enterprises can be sustained in our environment. This will be one of three of these sites in a triangle in half a mile. When is it too many?

Concern was raised about ammonia coming off the plant, especially with a predominantly south westerly wind, this it could affect residents living in Templeton. Templeton Parish Council would not find the use of chicken litter 'field heaps' acceptable.

Traffic

We note DCC Highways would like to see a 'Swept Path Analysis Plan' produced to see how the large tractors and trailers and the HGVs could leave and enter the B3137 safely from both directions. The suggested route directly to the South or via Looseland Cross to the East, both result in left/right turnings onto the B3137 which will be impossible for artics without using both carriageways and the roads banks. It will merely be 'interesting' for tractors and trailers, given the blind bends on this National Speed Limit road. We would agree with this test being mandated given the road dimensions and the history of damage to Honeysuckle Cottage and banks on the corner.

We suspect the route chosen for artics to Edgeworthy will be via the A361 NDLR, via Crossmoor, on the route used by milk tankers accessing the Greener for Life operation at Cleave Farm, then turning right into the currently closed road past Edgeworthy at Looseland Cross. For safety reasons we would also like to see the 'Swept Path Analysis Plan' carried out on the A361 junction to see if the obvious risks are acceptable.

What is DCC Highways' assessment of the increase in traffic and does DCC Highways have any plans to repair the East/West road to the north of Edgeworthy, which has now been closed to traffic for several years (though still used by tractors and trailers). There is concern that this application will lead to more damage to the road through Nomansland, the other half of the closed section, as this road allows access to the A3137, with good visibility, but travelling through Nomansland.

To reduce transport movements and keep all waste on-site the use of the Edgeworthy Anaerobic Digester (13/01170/FULL, approved at Appeal) should be mandated. Why would ADs be built other than to handle on farm waste?

**Tiverton Town Council** – 18th May 2020

Support following requested archaeological survey

**South West Water** – 18th June 2020

I refer to the above application and whilst South West Water has no objection a public water main as shown on the attached runs through the site and no buildings or structures will be permitted within 3m of this.

**South West Water** - 17th July 2020

No further comments

**Devon Cornwall and Dorset Police** – 29th April 2020

The Police have no comments at this time, and unless the local authority has any specific concern in relation to crime and disorder will have no future comment to make.

**Local Highway Authority** – 25 August 2020

Observations:

**Previous Comments:**

The site is accessed off the B3137 a Primary County Route which is restricted to 60 MPH. The number of personal injury collisions which have been reported to the police in this area between 01/01/2014 and 31/12/2018 is one serious accident in 2018 which the access to this proposal was not a contributing factor.

Chapter 7 of the Environment Statement which addresses the Traffic, Transport and Access. The figures for the movement of large vehicles during the operation of the proposal is acceptable and the cumulative impact will not be severe.

Although this document has not addressed the topography of the junction of the unclassified Devon lane onto the B3137. The County Highway Authority would like the Applicant to submit a Swept Path Analysis Plan showing how the large vehicles can negotiate this junction from both directions and also leaving the junction in both directions on to the B3137. To ensure these large vehicles do not cross the centre lines on the B3137 and cause a highway safety issue.

The condition of the unclassified Devon lane has also not been assessed in the above document and the County Highway Authority have concerned this lane is already in a very poor condition and these movements proposed could damage the lane further. Therefore the County Highway Authority would like to see mitigation to ensure further damage will not occur.

Therefore the County Highway Authority cannot put forward a recommendation until the issues raised above have been addressed.

**Further Information 4/8/2020**

The Applicant has submitted the Swept Path Analysis Drawing, C20086-SPA001 Rev A.

But I would like to draw attention to the previous approved Application which the Applicant has stated this Application is the same.

Application 15/01611/MFUL Technical Note 2 states 2.4 *In the vicinity of the junction it is proposed to carry out works to increase the width of public highway S2512 as shown on TPA drawing SP02-B included at Appendix B, to allow vehicles associated with the proposals to safely negotiate the junction. These works were proposed and agreed as part of the previous AD plant proposals at the site.*

This was then conditioned on the Decision Notice Condition 5 *The poultry sheds shall not be brought into use before the improvements to the junction onto the B3171 have been implemented in accordance with drawings 1507-53 FIGURE 2.2 REV B, Entrance 23, and Swept Path Analysis 1507-53 SP02 REV B and TPA Technical Note 2 - Response to Highway officers Comments, Received 17th December 2015, to be agreed in writing by Devon County Council.*

This has not been included on this present application. I have spoken to the agent about these improvements and been assured this will be added as part of this proposed application.

Therefore again the County Highway Authority cannot put forward a recommendation until the issues raised above have been addressed.

#### **Further information 19/8/2020**

The Applicant has submitted Drawing SP02-B which shows the proposed works to increase the width of the public highway.

Therefore the County Highway has no objection to the proposal and would recommend the following conditions.

#### **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. Prior to commencement of any part of the site the Planning Authority shall have received and approved a Construction Management Plan (CMP) including:
  - (a) the timetable of the works;
  - (b) daily hours of construction;
  - (c) any road closure;
  - (d) hours during which delivery and construction traffic will travel to and from the site, with such vehicular movements being restricted to between 8:00am and 6pm Mondays to Fridays inc.; 9.00am to 1.00pm Saturdays, and no such vehicular movements taking place on Sundays and Bank/Public Holidays unless agreed by the planning Authority in advance;
  - (e) the number and sizes of vehicles visiting the site in connection with the development and the frequency of their visits;
  - (f) the compound/location where all building materials, finished or unfinished products, parts, crates, packing materials and waste will be stored during the demolition and construction phases;
  - (g) areas on-site where delivery vehicles and construction traffic will load or unload building materials, finished or unfinished products, parts, crates, packing materials and waste with confirmation that no construction traffic or delivery vehicles will park on the County highway for loading or unloading purposes, unless prior written agreement has been given by the Local Planning Authority;
  - (h) hours during which no construction traffic will be present at the site;
  - (i) the means of enclosure of the site during construction works; and

- (j) details of proposals to promote car sharing amongst construction staff in order to limit construction staff vehicles parking off-site
- (k) details of wheel washing facilities and obligations
- (l) The proposed route of all construction traffic exceeding 7.5 tonnes.
- (m) Details of the amount and location of construction worker parking.
- (n) Photographic evidence of the condition of adjacent public highway prior to commencement of any work;

2. The poultry sheds shall not be brought into use before the improvements to the junction onto the B3171 have been implemented in accordance with drawings Entrance 23, and Swept Path Analysis 1507-53 SP02 REV B.

### **Historic Environment Team** - 1st May 2020

The consent granted for the earlier planning application (15/01611/MFUL) is conditional upon a programme of archaeological work being undertaken - Condition 7. As such, I would recommend that this application is 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 (2019) 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 (2019), 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 a staged programme of archaeological works, commencing with the excavation of a series of evaluative trenches to determine the presence and significance of any heritage assets with archaeological interest that will be affected by the development. Based on the results of this initial stage of works the requirement and scope of any further archaeological mitigation can be determined and implemented either in advance of or during construction works. This archaeological mitigation work may take the form of full area excavation in advance of groundworks or the monitoring and recording of groundworks associated with the construction of the proposed development to allow for the identification, investigation and recording of any exposed archaeological or artefactual

deposits. 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/>.

#### **Public Health Team** – 30th April 2020

Contaminated Land: No objection to this proposal. (29.04.20).

Air Quality: No objection to this proposal. (29.04.20).

Environmental Permitting: No objection to this proposal. This activity is permitted by the Environment Agency. (23.04.20).

Drainage: No objection to this proposal. (29.04.20).

Noise & other nuisances: No objection to this proposal. (29.04.20).

Housing Standards: No comment. (23.04.20).

Licensing: No comments. (23.04.20).

Food Hygiene: No comments. (23.04.20).

Private Water Supplies: Not applicable. (23.04.20).

Health and Safety: No comments. (23.04.20).

#### **Lead Local Flood Authority** - 13th May 2020

We have no in-principle objections to the above planning application, from a surface water drainage perspective, at this stage. If the Planning Case Officer is minded to grant planning permission in this instance, I request that the following pre-commencement planning conditions are imposed:

No development hereby permitted shall commence until the following information has been submitted to and approved in writing by the Local Planning Authority:

(a) A detailed drainage design based upon the approved Land at Edgeworthy Farm, Nomansland, Flood Risk Assessment & Drainage Strategy, dated 18th November 2019.

(b) Infiltration testing to BRE365 should be undertaken at the site and the results used to inform the detailed drainage design.

(c) Detailed proposals for the management of surface water and silt run-off from the site during construction of the development hereby permitted.

(d) Proposals for the adoption, if appropriate, and maintenance of all aspects of the proposed permanent surface water drainage system.

#### Observations:

The applicant has provided a feasible surface water drainage strategy. It is proposed to limit runoff to greenfield rates, incorporating long term storage, by providing attenuation within a basin. We recommend the basin should have side slopes no steeper than 1 in 3 and should be designed with a 300 mm freeboard on top of the 1 in 100 year plus 40% design level.

In line with the principle of the surface water hierarchy, we would encourage the applicant to fully investigate the use of infiltration at the site and have recommended an infiltration testing condition.



### **Natural England** – 1st May 2020

Thank you for your consultation email dated and received 23rd April 2020 regarding the above proposal. We understand that this is a resubmission of a lapsed permission (15/01611/MFUL).

Natural England provided advice for the original application (our ref: 174471) on 17th December 2015 (copy attached for your information).

The Hydrock Air quality report submitted as part of the current application (20/00594/MFUL) doesn't consider ecological receptors because of data provided by the Environment Agency with the previous application. If the current application is relying on the Environment Agency screening report (12th May 2015) we consider it should form part of the current application submission.

On the basis that the details of the current application have not changed and the advice from the Environment Agency hasn't changed, Natural England's advice remains the same and we have no objection with regard to designated sites.

We have not assessed this application and associated documents for impacts on protected species. Natural England has produced standing advice[1] to help planning authorities understand the impact of particular developments on protected species. We advise you to refer to this advice. Natural England will only provide bespoke advice on protected species where they form part of a SSSI or in exceptional circumstances.

Development provides opportunities to secure a net gain for nature as outlined in paragraphs 170 and 174 of the revised NPPF[2] (2019), the Defra 25 year Environment Plan and Mid Devon's Green Infrastructure Plan (Policy GI/3 biodiversity net gain). We advise you first to follow the mitigation hierarchy as set out in paragraph 175 of the NPPF and consider what existing environmental features on and around a site can be retained or enhanced before considering what new features could be incorporated into a development proposal. An evidence based approach to biodiversity net gain can help LPAs demonstrate compliance with their duty to have regard for biodiversity in the exercise of their functions[3] (under Section 40 NERC Act, 2006). Biodiversity metrics[4] are available to assist developers and local authorities in quantifying and securing net gain. Local Authorities can set their own net gain thresholds but Natural England would currently expect a minimum of 5% net gain and LPAs should aim to negotiate upwards where possible. The Environment Bill currently sets a 10% threshold.

### **Natural England** - 22 July 2020

Natural England has previously commented on this proposal and made comments to the authority in our letter dated 03 April 2020. Based on the information provided and Natural England's previous advice we have no objection.

Should the proposal be amended in a way which significantly affects its impact on the natural environment then, in accordance with Section 4 of the Natural Environment and Rural Communities Act 2006, Natural England should be consulted again. Before sending us the amended consultation, please assess whether the changes proposed will materially affect any of the advice we have previously offered. If they are unlikely to do so, please do not re-consult us.

### **Council Tree Officer** – 13th May 2020

#### 1.0 Introduction

1.1 The tree officer comments refers to the proposed erection of five poultry units, biomass boiler unit, attenuation pond, access track, hardstanding, landscaping and associated infrastructure.

- 1.2 The main consideration is provided to the mature trees present on site.
- 1.3 In support of the application the Design and Access Statement and section 10 Landscape and Visual of the environmental statement has been reviewed.
- 1.4 Application has not provided a Tree Constraints Survey or Arboriculture Impact assessment in aid of application.
- 1.5 Currently no trees within the site are subject to tree preservation order. The site is not within a conservation area.

## 2.0 Applicants Supporting Tree Information

- 2.1 In reviewing the supporting information no trees are highlighted for removal.
- 2.2 Section 10 Landscape and Visual of the environmental statement notes that the proposed development would not require the removal of any trees or hedgerows, and all existing trees and hedgerows would be protected in accordance with BS5837:2012 during the construction phase.
- 2.3 Planting has been designed to screen views of the site from the nearest public access route which runs adjacent to the sites western boundary. The Site 3D Renders plan indicates a high level of tree planting that would buffer the proposed five poultry units.

## 3.0 Further Consideration

- 3.1 Predominantly the mature and notable trees are along the western and northern boundary of the proposed development. A hedge line is also present along the northern boundary that is sparse in places.
- 3.2 Restocking of the hedge line along the northern boundary would provide beneficial screening and amenity value.
- 3.3 A mix of tree planting sizes from saplings to heavy standards should be undertaken to provide a more natural uniform appearance that will provide immediate screening along with successional screening.
- 3.4 Tree and shrub species selection should be sympathetic and in keeping with the surrounding landscape and provide wildlife benefits.
- 3.5 All tree planting should be subject to an establishment and maintenance plan. Where trees fail to establish within the first two years they should be replaced.
- 3.6 It appears a Tree Constraints Plan and Arboriculture Impact Assessments had not been carried out. It felt this would be necessary to facilitate sufficient protection of the current trees during construction in accordance with BS5837:2012

## 4.0 Conclusion

- 4.1 A Tree Constraints Plan and Arboriculture Impact Assessments should be carried out to inform adequate protection of the current trees.
- 4.2 Is envisaged that no trees will be removed during the development. However, a Tree Constraints Plan and Arboriculture Impact Assessments would identify if this is accurate.
- 4.3. A mix and tree and shrub planting would provide suitable screening whilst increasing the tree canopy cover.

### **Council Tree Officer** – 10th August 2020

Now that I have seen the AIA I am happy that if fully enacted the trees would be offered suitable protection during construction.

### **North Devon Council** - 10th August 2020

North Devon Council has no further comments to make with regards to this development and considers its previous comments are still relevant.

## **North Devon Council** – 21st May 2020

Having reviewed the documents the application appears to be for the same development which was granted approval in 2016 and I am assuming this has subsequently lapsed. North Devon Council does not object to the development subject to appropriate conditions as per approval 15/01611/MFUL. This is particularly in relation to drainage, highway safety, odour and waste management and any landscaping which may be required.

## **Historic England** - 24th July 2020

On the basis of the information available to date, we offer the following advice to assist your authority in determining the application.

### Historic England Advice

We can find no amendments that affect the historic environment and therefore have no further comments to make and our previous advice dated the 7th May 2020 stands.

### Recommendation

Historic England has no objection to the application on heritage grounds. We consider that the application meets the requirements of the NPPF, in particular paragraph number 189. 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.

## **REPRESENTATIONS**

One letter of objection has been received with the grounds for objection summarised as follows:

- Transport plan has been reproduced from 2015 which is considered out of date and not accurate for the situation now.
- Increase in traffic impacting the local road network, cumulative effect from previous applications.
- Road safety concerns due to the narrow rural roads in the area and unsuitable for any increase in large articulated lorries or large tractors. There are no footpaths in the villages of Witleigh and Nomansland for pedestrians which brings them into conflict with these vehicles.
- Access is not suitable, also too narrow which leads to damage of property.

## **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

**The proposal is the same as that previously approved under planning permission 15/01611/MFUL but topics within the Environmental Statement have been updated. The main issues in the determination of this application are therefore considered to be similar as before which were:**

- 1. Relevant Policies**
- 2. Policy in context**
- 3. Design**
- 4. Impact on amenity of local residents (traffic, noise, odour)**
- 5. Landscape and Visual Impact**
- 6. Environmental Impact**
- 7. Highways**
- 8. Waste water and Surface Water Drainage**
- 9. Other matters**

## 1. Relevant Policies

The key policy used to determine the application is policy DM20 (Agricultural development) of the Mid Devon Local Plan Review 2013-2033. This states that agricultural development will be permitted where:

- a) The development is reasonably necessary to support farming activity on that farm or in the immediate agricultural community;
- b) The development is sensitively located to limit any adverse effects on the living conditions of local residents and is well-designed, respecting the character and appearance of the area;
- c) The development will not have an unacceptable adverse impact on the environment; and
- d) The development will not have an unacceptable traffic impact on the local road network.

Relevant assessment of the policy is given under Sections 2, 4, 5 and 6 of the report.

Policy DM18 (Rural employment development) is also relevant. This states that in countryside locations, planning permission will be granted for new build employment development or expansion of existing businesses, provided that the development is of an appropriate use and scale for its location. Proposals must demonstrate that:

- 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 assessment of this policy is made under Sections 2, 4, 5 and 6 of the report.

Policy DM28 (Other protected sites) considers the impact of development proposals likely to have an individual or cumulative adverse impact on important sites including Sites of Special Scientific Interest (SSSI) Ancient Woodland and Special Areas of Conservation. There are no sites in Mid Devon that are designated at European level for wildlife protection or special conservation, however the proposed development is within 7km of the Culm Grasslands Special Area of Conservation (SAC) and Hare's Down, Knowstone and Rackenford Moors SSSI. Policy DM28 states that planning permission will only be granted where:

- a) The benefits of and need for the development clearly outweigh the direct and indirect impact of the protected site and the ecosystem it provides;
- b) The development could not be located in an alternative, less harmful location; and
- c) Appropriate mitigation measures have been put in place. Where mitigation measures are not possible compensatory measures in some cases may be considered appropriate.

Where development proposals are likely (leaving aside mitigation measures) to have a significant effect on a European site (as defined in regulation 8 of the Conservation of Habitats and Species Regulations 2017), an appropriate assessment will be required. In such cases, planning permission will be refused unless it has been ascertained that with mitigation measures in place the development will not adversely affect the integrity of the site.

The relevant assessment is set out under Section 5 of this report.

Policy S9 (Environment) of the Mid Devon Local Plan Review 2013-2033 requires development proposals to sustain the distinctive quality, character and diversity of Mid Devon's environmental assets through high quality design and preservation of the distinctive qualities of the natural landscape. This policy also seeks measures to minimise the impact of development on climate change in order to contribute towards national and regional targets for the reduction of greenhouse

gas emissions. Such measures should include the development of renewable energy capacity where there is an acceptable local impact including visual, and on nearby residents and wildlife. Design is also measured under policy DM1 of the Mid Devon Local Plan Review 2013-2033.

Policy S6 (Employment) recognises that employment development should be distributed across towns, villages and the countryside to support a strong and sustainable rural economy with S14 (Countryside) supportive of agricultural employment in the countryside.

Policy S8 (Infrastructure) and Policy DM3 (Transport and air quality) seek to manage travel demand from development and reduce air pollution whilst enhancing road safety. Significant development must be accompanied by Transport plans.

Policy S14 (Countryside) seeks to control development outside of settlement limits in order to protect the character, appearance and biodiversity of the countryside while promoting sustainable diversification of the rural economy but is permissive of agricultural buildings in principle.

## **2. Policy in context**

The National Planning Policy Framework (NPPF) affirms three objectives to the principle of sustainable development: economic, social and environmental. The Framework seeks to support a prosperous rural economy through the expansion and diversification of all types of rural business and the NPPF applies a presumption in favour of rural development subject to compliance with local planning policies.

The proposed development is said to be reasonably necessary to address a growing demand for free range chicken in a fast growing UK market. As outlined in the previously approved application and with this repeat application, it is argued that the development proposal satisfies this need by seeking to develop a sustainable food chain and forms part of a wider strategic partnership between Greener for Life and 2 Sisters in Willand. The application draws on research by the British Poultry Council, which states on average, each job in the poultry meat industry contributes £41,000 in gross value added to the UK GDP.

An economic gain is secured through income diversification to the farming enterprise and the development is argued to safeguard the existing employment at the farm and generate one additional full time employment position. In addition the development will generate additional contractual employment during cleanout times. It will also support further employment within the associated industries within the poultry industry including the processing plant, hatchery, suppliers, contractors and skilled labourers.

Environmental gains will be secured through carbon reduction and local biodiversity enhancements including extensive planting around the buildings in order to secure a suitable range for the poultry. The proposed boiler unit providing the heating for the poultry sheds would also be heated by biomass, providing carbon displacements in comparison to traditional poultry sheds boilers. The poultry litter will be processed off-site but nearby at the existing Menchine AD plant and this satisfies a principle for close proximity with regards to the management of waste. The dried digestate would be usable as a fertiliser in fibre or pelleted forms subject to a license being granted.

Overall, it is considered that there is a justified need for the expansion of the farming activity, which would in turn also support the activity on the adjacent holding at Menchine. The proposed development is considered to comply with part a) of DM20 and the generation of employment on the site would receive policy support under DM18 of the Mid Devon Local Plan Review 2013-2033. The proposed development would also contribute to the function of the Menchine AD plant and

receive underlying support under policies S9 (Environment) and DM2 (Renewable and low carbon energy).

In regard to the location of the poultry sheds at Edgeworthy Farm, the LPA considers that it would be unreasonable to require the applicant to justify the siting of these sheds on land away from the main holding, particularly where it is demonstrated that transport, visual and environmental impacts are found to be acceptable. The supporting statement argues that the field is ideally suited because it is close to the main Edgeworthy site and is already well screened from wider views. The proposal can be said to comply with part c) of policy DM18.

### **3. Design**

The development would utilise almost the entire agricultural field. Whilst the design of the structures is utilitarian, it is considered to be appropriate for the intended use of poultry rearing, and ridge heights have been purposefully reduced in order to minimise the visual impact from the immediate setting. The development of the site is considered to comply with S9, S14, DM1 and DM20 of the Mid Devon Local Plan Review 2013-2033. The development also includes Sustainable drainage scheme which has been subject to consultation with Devon County Council. This applies further support under policy DM1.

The provision of an onsite biomass heating system in a small housing unit within the site does not result in harm to the rural character of the area and would comply with policies S9, DM1 and DM2 of the Mid Devon Local Plan Review 2013-2033.

### **4. Impact on amenity of local residents (traffic, noise, odour)**

The main issues for consideration are the potential impacts arising from traffic movements between Edgeworthy and Menchine, the noise associated with vehicle movements and the construction/operation of the site, and potential nuisance from odour associated with the poultry units and water storage tanks. The Local Planning Authority has consulted Environmental Health in the determination of the application. It is recognised that traffic, noise and odour are major areas of concern for local residents and Parish Councils.

In answer to questions raised by the Parish Councils in terms of the proposal for intensive poultry farming on site, parking on site and operation hours, it has been confirmed for clarity that the birds are to be free range and will be for human consumption, with certain parts of the bird going into pet food (guts etc). It has been stated that a site manager will be employed separately for the proposed poultry sheds. They will access the site via car and shifts are between 08:00 and 17:00. Some shifts will be night shifts that will occur when the poultry are being transported to the processing plant. The additional farm labour required during the catch would arrive by minibus.

In relation to traffic movements, the operational AD plant at Menchine Farm currently imports poultry litter from other poultry producers further from the site. As outlined in the previously approved application, supporting information confirms that the proposals at Edgeworthy would reduce annual average transport movements from the road network. This would therefore have a beneficial impact on air quality and any fugitive odours.

The closest residential property is 340 metres away and Environmental Health requested information on the ventilation system to be installed detailing the sound power level in the previous application which was approved. The EH officer assessed the proposal on the basis that the building would be mechanically ventilated. This applies a worst case scenario regarding the potential noise generated through the process. The further information satisfies the EH Officer that the development would be acceptable. As part of this new application, a Plant Noise Assessment

Report has been submitted which confirms that a noise survey was carried out over the period 31st May 2019 to 2nd June 2019 to establish the typical background sound levels at receptors. Operational plant noise associated with the proposed development has been modelled at existing dwellings in the area. The noise impact of the development is predicted to be low.

With respect to concerns over ammonia, as confirmed to the Environment Agency, all sheds will be installed with under floor heating utilising waste heat from the adjacent biogas plant which ensures litter is kept dry and friable at all times. The applicant has outlined that with other houses they operate, this reduces ammonia emissions to almost undetectable levels. Litter will be transferred immediately at clean-out to a covered shed at the biogas plant and used as a feedstock for biogas production. None will be stored outside or spread direct to land.

On the previous application approved and submitted with this application, the applicant submitted details on the individual and cumulative impacts of each development for Edgeworthy, Menchine Farm and Gibbet Moor Farm. This addresses the potential impact on the nearest neighbouring residents and those in Nomansland on the proposed route. There is the potential for impacts on neighbours arising from noise and odour during the rearing process, when cleaning the sheds at the end of each cycle and during the transporting chicken litter to Menchine AD. The applicant's consultant has advised:

Following a review of the proposed locations of the poultry farm planning application sites and the location of existing residential receptors (including farmhouses), there are no receptors within proximity to more than one of the planning application sites and therefore the operation of the poultry farms are unlikely to result in any cumulative odour impacts. The clean out days will be staggered to allow a more even feed of litter into the AD plant. Clean out would only happen 5 or 6 times a year. Given the distance between the sites and the staggering of the fill days there will be no cumulative effect during the clean out days.

Regarding odours from the transport of the poultry litter, the consultant advised on the previous approved application:

In terms of fugitive odours from the transport of poultry litter to the existing AD unit at Menchine Farm and from the operation of the AD unit there have been no complaints to date relating to odours from vehicles or from the operational AD plant, which has been operating for a year. Additionally the AD unit at Menchine Farm currently operates by importing the majority of its set requirement of poultry litter feedstock from offsite producers via road, the increase in operations at Menchine Farm would result in an additional 1,000 tonnes of poultry litter being produced on-site. Based on the information set out in the AD planning application (14/01915/FULL & 14/00515/MFUL) the increase of operations at Menchine Farm and the use of litter from Edgeworthy and Gibbet Moor Farms would result in a decrease of 100 annual average transport movements. As per the existing situation, all loads being transported to the AD plant would be sheeted. Given that current operation of the AD unit has not resulted in any odour complaints and that the number of vehicles importing poultry litter to the AD unit would decrease, it is considered there would be no cumulative impact but there is the potential for a beneficial impact.

In relation to cumulative impact from the transport movements at Edgeworthy, Menchine and Gibbet Moor which was considered as part of the original permission, the Consultant confirmed the operational AD plant at Menchine Farm currently imports poultry litter from other poultry producers located off-site. The proposals at Menchine Farm and Edgeworthy and Gibbet Moor would remove 100 annual average transport movements from the road network. This would have a beneficial impact on air quality and any fugitive odours. On review of this information the Environmental Health Officer confirmed they were satisfied with the information provided by the applicants response to the questions raised over the cumulative effects all three planning applications. It is highlighted in this response that there will not be an increase in the transportation of chicken litter and it is only the source of this chicken litter that would change from the existing arrangement. The

Environmental Health Officer considers that with the more local sourcing of chicken litter there should be a reduction in the amount of transport movements per year resulting from the expansion of Menchine Farm having to import less chicken litter from other sites further away.

The site operation would be subject to monitoring for possible issues arising from noise and odour and the site would be subject to an Environmental Agency environmental permit to control impacts on the wider area. It is considered that the proposed development would receive support under policies DM1, DM3, DM4 and DM20 of the Mid Devon Local Plan Review 2013-2033.

## **5. Landscape and Visual Impact**

The development site comprises an agricultural field used for grazing. The development site lies outside of any statutory or non-statutory/local landscape designations and comprises grade 3 common grazing land. The site is within the farmed lowland and moorland of the Culm grassland character type.

The supporting statement and Environmental Statement (ES) describe a slight east-west aligned ridge across the middle of the field, though this is only approximately 1 metre different from the general fall of the land. The western part of the northern boundary is formed by deciduous tree species of approximately 16 metres in height. The central section of the boundary is formed by a tall hedgerow of around 9 metres, and the eastern end is formed by lower bramble, ash saplings and nettles. The eastern part of the southern boundary is formed by a tree belt of native species to approximately 8 metres in height. The central and western parts of this boundary are more open, being made up of groups of native trees ranging from 8 to 17 metres tall.

The southern part of the western boundary is formed by more tree belts and tree groups, these being of native species to approximately 17 metres in height. The northern section of this boundary is formed by a native hedgerow of around 3 metres tall. A publicly accessible farm track lies to the west of this boundary, and beyond this are two further sections of tree belt, these being 15-17 metres tall. The ES considers the impact on the landscape from the construction phase as well as in operation. The report identifies that the landscape is of a medium sensitivity to development although there would be a negligible effect because no trees or sections of hedgerow are proposed for removal or likely to be affected by the construction of the sheds or associated works.

Visits to the site have identified that long to medium range views of the application site are very limited. It was possible to see part of the field when passing the junction onto the B3137 although views are interrupted by the undulating topography of the land and multiple field boundaries of trees and hedgerow. Your Officer considers that the visual impact arising from the development is closely associated with short range views and of a lesser impact upon the wider landscape character.

The proposed development has been considered in accumulation with other development at Edgeworthy including existing farm building and Anaerobic Digester (13/01170/FULL) approximately 50 metres to the west, and two wind turbines granted (11/01955/FULL) 330 metres to the west. Your Officers have had regard to these other features, as well as the cumulative impact with the main buildings within the Edgeworthy farmstead. It should be noted that the Officer Report and Appeal decision for the AD plant (13/01170/FULL) did not identify an unacceptable level of visual harm. The AD has been constructed and can only be seen from the approach to the farm on the unclassified access road off the B3137. Planning permission for the two wind turbines was granted under delegated authority (11/01955/FULL). Your Officers considered the visual impact upon the character and appearance of the surrounding landscape and concluded under this earlier application that the turbines would be visible and would change the nature of the



immediate surroundings, albeit the impact would be generally short range and the cumulative effect from further distances would be negligible.

The proposed poultry sheds are not considered to affect long range views and there is no unobstructed line of sight between the turbines and the application site. The poultry sheds and other development are not considered overly tall, and therefore the cumulative impact with other development is deemed to be minimal.

There are no public rights of way running through the site and the nearest public rights of way are the Puddington Footpath 12 (approximately 1.7 km south-west of the site), Thelbridge Footpath 10 (approximately 2.5 km south-west) and Felbridge Footpath 11 (approximately 1.9 km to the west of the Application Site). Templeton Footpath 2 is approximately 1.5 km to the east-north-east of the site and runs from Templeton Lane to Colston Barton and then onto Templeton. It can be concluded that views toward and from the application site are generally restricted. It is possible to see the site from a limited number of positions, namely from the B3137 and Cornermoor Cross unclassified road, although the site is not considered to be in plain sight.

Whilst the development would be visible from short to medium range views within the local landscape, it is not considered that the visual harm, both individually and cumulatively with other development would result in unacceptable harm to the character and appearance of the rural setting nor to warrant the refusal of this application. The application is considered to be in accordance with policies S9, DM1, DM3 and DM20 of the Local Plan Part 3 (Development Management Policies) in this respect.

## **6. Environmental Impact**

An Environmental Impact Assessment screening request was submitted to the Local Planning Authority 2<sup>nd</sup> June 2015, and a screening opinion was issued on 23<sup>rd</sup> June 2015 prior to submission and approval of planning permission 15/01611/MFUL. This determined the development would fall under Schedule 2 of the Environmental Impact Assessment Regulations 2015, because the proposed development would amount to an intensive installation rearing 60,000 broilers. This has not changed following the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 and Environmental Impact Assessment updates made in 2019/2020. The main environmental impacts likely to arise from the proposed development were identified to be from airborne emissions and from the production of waste in the form of poultry manure and dirty water. It was noted that this could impact nearby occupants but also the Culm Grassland SAC, and the Haresdown Knowestone and Rackenford Moor SSSI.

When assessing impacts upon the natural environment and habitats, Natural England guidance states that where the effects of development cannot be excluded, an appropriate assessment is required to reach a conclusion as to whether an adverse effect on the integrity of the site can be ruled out. The developer has submitted an ammonia screening report in conjunction with the Environmental Statement, which considers the likelihood of significant environmental impacts. Mid Devon District Council is the competent authority under the Habitats Regulations 2010, to determine the potential impacts arising from development proposals on the environment including protected sites. The Authority must determine whether the development would be likely to have significant effects.

Natural England originally objected to the proposal in 2015 on the basis of inadequate information had been provided to determine whether the impacts arising from the development would be likely to have a significant effect on sites but have confirmed no objection now to this application. Further to the submission of additional information, Natural England confirmed that the proposal is unlikely to have a significant effect on any European site, and can therefore be screened out from any

requirement for further assessment. Having regard to the pre-application Environment Agency Ammonia screening response, the Local Planning Authority considers that sufficient information has been provided to determine the likely effects upon the Culm SAC and SSSI sites in the area. It is considered that there are sufficient measures set out within the ES to conclude that the development (in construction and operation) would have an acceptable environmental impact without significant harm to the local setting or to protected sites. It is also concluded that the benefits arising from the development would outweigh the direct and indirect impact of the Culm Grassland SAC and SSSI designations, that the development could not be reasonably located in an alternative, less harmful location and appropriate mitigation measures are proposed to make the development acceptable, in accordance with S9 and DM28 of the Mid Devon Local Plan Review 2013-2033.

An Ecology Survey written by Clarkson and Woods has been submitted as part of the ES. The survey identified that the majority of the site comprised improved grassland of low ecological value. The most valuable features of the site are the hedgerows and trees bordering the site. There is also a wet ditch adjacent to the southern boundary with potential to support water vole and commuting otters. The report sets out mitigation measures for the protection of trees and hedgerows including a Construction and Environmental Management Plan (CEMP) and a Landscape and Ecological Management Plan (LEMP). Ecological enhancement measures are also proposed to improve the site's biodiversity. The development will be subject to a permit under the Environmental Permitting Regulations 2010 which requires the rearing of more than 40,000 birds as intensive farming. The permit is administered by the Environment Agency. An application for a permit has been submitted alongside the application for planning permission.

Orbis Ecology were commissioned to review the ecological work conducted by Clarkson & Woods Ecological Consultants in 2015, their findings and recommendations, to assess if the work was still relevant or if further survey work is required. Orbis Ecology noted, in a letter on 9th April 2019, *"I have reviewed the findings and recommendations contained in that report and resurveyed the site on 9th April 2019. An updated records search was also commissioned from the Devon Biodiversity Records Office for any new records of designated sites and protected or notable species within the surrounding 1km. As a result of this work, I can confirm that there have been no significant changes to the status of the site with regards to any sensitive ecological receptors on or near the site, and the findings and recommendations of the 2015 report are still valid"*.

## **7. Highways**

It is clear that the proposed development will generate additional trips on the highway network. The level and impact of these additional vehicle movements is a major concern of a number of Parish Councils and residents who have submitted representations. In particular, the concerns relate to the increase in movements of HGVs travelling between Edgeworthy and Menchine with chicken litter and the wider highway network. It has also been commented that the unclassified lane would be undermined by the increase HGV movements and that point of access onto the B3137 is inadequate.

Paragraph 111 of the National Planning Policy Framework relates to development likely to generate significant amount of traffic movement and requires a Transport Statement or Transport Assessment to be submitted. This should take into account whether improvements can be undertaken within the transport network that could effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

The Local Planning Authority has consulted Highways Authority on this application and initially advised that they could not support the application on grounds of insufficient information to

demonstrate that the impact on the highway network and also plans submitted on the previously approved planning application had not been submitted as part of this application. Further information was therefore requested in the form of the approved modelling the B3137 junction and improvements to this access onto the highway being submitted as part of this application which has now been done.

The applicants have submitted an assessment of traffic impacts within the Environmental Statement (ES) and a Construction Management Plan (CMP) was provided as part of this but the Local Highway Authority wish to agree a more detailed CMP through planning condition. The information submitted to address traffic impacts is further supported by a Technical Note submitted by Transport Planning Associates on 17th December 2015 and the Highways Technical Note dated produced by Hydrock on 3<sup>rd</sup> June 2019. The cumulative effects of the development have been considered in conjunction with the development at Menchine Farm and Gibbet Moor Farm. The applicant has assessed the movements associated with the existing poultry sheds at Menchine Farm, the proposed poultry sheds at Edgeworthy and also the transferral of poultry litter from Edgeworthy and Gibbet Moor to Menchine.

The Technical Note addendum to the ES concludes that the cumulative traffic impact will be negligible in terms of total traffic and minor in terms of HGV traffic and that the impact on pedestrian amenity (including fear and intimidation) will be negligible. There is sufficient hard surfacing indicated for the parking of vehicles including HGVs using the site to comply with policy DM5 of the Mid Devon Local Plan Review 2013-2033. The Highways Technical Note by Hydrock has concluded that the development proposals would not have a material detrimental impact upon the operation and functioning of the local highway network and *'in the context of the guidelines within paragraphs 108 & 109 of the NPPF it is considered that there are no residual adverse cumulative impacts in terms of highway safety or the operational capacity of the surrounding transport network and therefore planning permission should not be withheld on transport grounds.'*

It is recognised that the development of three separate sites close to Nomansland gives rise to local concern over transport impacts, however the application is considered to demonstrate that highways impacts from the construction and operation of the site would be acceptable and the impact would be less than severe in the context of Paragraph 111 of the NPPF. The proposal is considered to be in accordance with policies S8, DM3 and DM5 of the Mid Devon Local Plan Review 2013-2033 and the National Planning Policy Framework (notably Paragraph 32).

## **8. Waste Water and Surface Water Drainage**

The Environment Agency and Devon County Council Lead Flood Authority were both consulted prior to the determination of the application. It is confirmed that the waste water generated from the cleaning of the sheds will be stored in underground tanks and will therefore not present an issue with dirty water polluting watercourses. Surface water is proposed to be managed through the attenuation pond at the southern end of the site.

Rainwater harvesting is not proposed due to issues of biosecurity. Instead the run off from the roofs of each shed will be piped to discharge into the attenuation pond which is outside of the chicken roaming area. From the pond the water is conveyed by a swale to the watercourse. The Devon County Council Lead Flood Authority Officer has confirmed that drainage details are acceptable, but has requested that a planning condition should be imposed which requires a final detailed drainage scheme to be submitted to the Local Planning Authority before any work is undertaken.

The provision of surface water drainage system and the waste water catchment tanks is considered to be acceptable under policy S9 and DM1, and will mitigate risk of pollution into the watercourse, in accordance with DM4 of the Mid Devon Local Plan Review 2013-2033.

## **9. Other matters**

Devon County Council Historic Environment Service have commented on the application and advised that a full written scheme of archaeological investigation be carried out prior to the commencement of development on the site. This is covered by condition upon the grant of consent. Historic England advised on the application in 2015 that it has the potential to harm the setting of four scheduled bowl barrows on Witheridge Moor and a bowl barrow 175m west of Elworthy Cross. The barrows survive on open moorland and as such are more susceptible to change within their setting. They derive significance from the information embodied in their fabric, as well as their place in their historic landscape, their 'setting'.

Historic England have confirmed as part of this latest application that they have no objection that that they consider that the application meets the requirements of the NPPF, in particular paragraph number 189. In summary, Historic England believe that there will be a degree of harm to the setting of the scheduled barrows on Witheridge Moor, however, the level of harm will is considered to be minor and at most would constitute 'less than substantial harm' because of the distance between the sites. The Local Planning Authority considered that there would be sufficient public benefit as discussed in section 2 of this report to outweigh the very minor harm caused. The proposal is not deemed to conflict with policies S9, DM1 and DM25 of the Mid Devon Local Plan Review 2013-2033

## **CONDITIONS**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice.
3. No development hereby permitted shall commence until the following information has been submitted to and approved in writing by the Local Planning Authority:
  - (a) A detailed drainage design based upon the approved Land at Edgeworthy Farm, Nomansland, Flood Risk Assessment & Drainage Strategy, dated 18th November 2019.
  - (b) Infiltration testing to BRE365 should be undertaken at the site and the results used to inform the detailed drainage design.
  - (c) Detailed proposals for the management of surface water and silt run-off from the site during construction of the development hereby permitted.
  - (d) Proposals for the adoption, if appropriate, and maintenance of all aspects of the proposed permanent surface water drainage system.Thereafter the approved drainage scheme shall be fully implemented before any part of the development is occupied, and be so retained.
4. The poultry sheds shall not be brought into use before the improvements to the junction onto the B3171 have been implemented in accordance with drawings Entrance 23, and Swept Path Analysis 1507-53 SP02 REV B.
5. No development shall be commenced until a Construction Environmental Management Plan has been submitted to and approved in writing by the Local Planning Authority. The

development shall be carried out in accordance with the approved Management Plan at all times during the construction phase of the development.

6. 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.
7. There shall be no outdoor storage of any waste materials generated by the development hereby approved, either on the application site and/or on any other land controlled by the applicant.
8. Prior to its first use on the building, details/samples of the proposed material indicating colour and finish to be used on all external roof surfaces across the development hereby approved shall be submitted to, and approved in writing by the Local Planning Authority. The approved material shall be so used and retained thereafter.
9. No development shall begin until there has been submitted to, and approved in writing by the Local Planning Authority, detailed drawings confirming the existing site levels, proposed finished floor levels for the buildings, and the proposed datum levels across the site. The development shall be completed in accordance the approved details thereafter.
10. Prior to commencement of any part of the site the Planning Authority shall have received and approved a Construction Management Plan (CMP) including:
  - (a) the timetable of the works;
  - (b) daily hours of construction;
  - (c) any road closure;
  - (d) hours during which delivery and construction traffic will travel to and from the site, with such vehicular movements being restricted to between 8:00am and 6pm Mondays to Fridays inc.; 9.00am to 1.00pm Saturdays, and no such vehicular movements taking place on Sundays and Bank/Public Holidays unless agreed by the planning Authority in advance;
  - (e) the number and sizes of vehicles visiting the site in connection with the development and the frequency of their visits;
  - (f) the compound/location where all building materials, finished or unfinished products, parts, crates, packing materials and waste will be stored during the demolition and construction phases;
  - (g) areas on-site where delivery vehicles and construction traffic will load or unload building materials, finished or unfinished products, parts, crates, packing materials and waste with confirmation that no construction traffic or delivery vehicles will park on the County highway for loading or unloading purposes, unless prior written agreement has been given by the Local Planning Authority;
  - (h) hours during which no construction traffic will be present at the site;
  - (i) the means of enclosure of the site during construction works; and
  - (j) details of proposals to promote car sharing amongst construction staff in order to limit construction staff vehicles parking off-site
  - (k) details of wheel washing facilities and obligations
  - (l) The proposed route of all construction traffic exceeding 7.5 tonnes.
  - (m) Details of the amount and location of construction worker parking.
  - (n) Photographic evidence of the condition of adjacent public highway prior to commencement of any work

The development shall be implemented in accordance with the approved CMP.

11. The development shall be carried out at all times in accordance with the recommendations for mitigation and enhancement specified in Section 7 of the Clarkson and Woods Ecological Survey Report dated September 2015 as approved under planning permission 15/01611/MFUL.

## **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 appropriate measures are taken to manage surface water in accordance with Policies DM1, DM5 and DM20 of the Mid Devon Local Plan Review 2013-2033.
4. To ensure an appropriate access to and from the site for use by heavy goods vehicles, in accordance with Policies S8, DM3 and DM20 of the Mid Devon Local Plan Review 2013-2033 and the National Planning Policy Framework.
5. To ensure the development will not result in unacceptable harm to the amenities of the area, trees hedges, watercourses or wildlife in accordance with Policies DM4 and DM20 of the Mid Devon Local Plan Review 2013-2033
6. To ensure, in accordance with Policy DM25 and paragraph 199 of the National Planning Policy Framework (2019), that an appropriate record is made of archaeological evidence that may be affected by the development.
7. To ensure appropriate management of waste resulting from the development in order to protect the local environment and prevent harm to the amenities of local residents.
8. To ensure an appropriate material which would not draw undue attention to the site in accordance with Policies S1, DM1 and DM20 of the Mid Devon Local Plan Review 2013-2033 and the National Planning Policy Framework.
9. To ensure appropriate levels are in place without harm to the rural setting in accordance with Policies S1 and DM1 of the Mid Devon Local Plan Review 2013-2033.
10. To ensure appropriate measures for the management of vehicle movements during the construction of the development hereby approved.
11. To ensure appropriate measures and mitigation are carried out to avoid undue harm to protected species.

## **REASON FOR APPROVAL OF PERMISSION**

The proposed development comprising 5 poultry sheds, attenuation pond and associated development is considered to be without significant detrimental impacts upon the living conditions of local residents arising from odour and additional vehicle movements from Edgeworthy to Menchine. The application provides sufficient information to determine the environmental impact upon the local setting as well as the Culm SAC and designated SSSI sites. It is concluded that whilst the development will result in some minor visual impact, this is not considered to be to the

detriment of the wider landscape character, because there are only short and medium range views across this part of the countryside without the disturbance of prominent views from public vantage points, bridleways and the public highway. Furthermore the cumulative visual impact of the development in association with the existing farm buildings, Anaerobic Digester and Wind turbines is found to amount to minimal harm. Cumulative impacts arising from vehicle movements, noise and odour, in conjunction with development of existing and poultry sites at Menchine Farm and Gibbet Moor Farm are not considered to be substantial or to warrant refusal of the application. The application is considered to comply with Policies S1, S8, S9, S14, DM1, DM2, DM3, DM4, DM5, DM20, DM28 and DM30 of the Mid Devon Local Plan Review 2013-2033.

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.