

PLANNING COMMITTEE – 16<sup>th</sup> June 21

Application No. 20/01263/MFUL

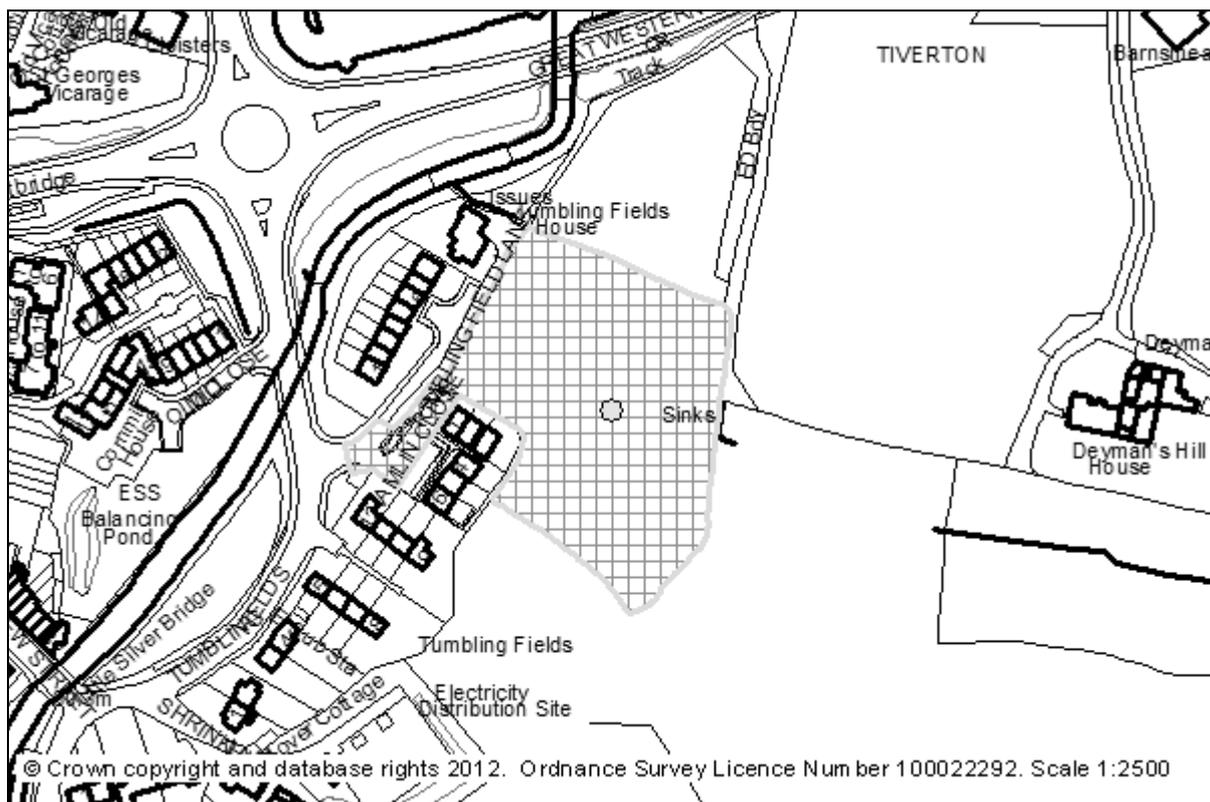
Grid Ref: 295639 : 112202

Applicant: Mr Adam Preece

Location: Allotments  
Tumbling Field Lane  
Tiverton  
Devon

Proposal: Erection of 22 dwellings with parking, landscaping and construction of new access

Date Valid: 3rd August 2020



## REPORT OF THE HEAD OF PLANNING AND REGENERATION

### Description of Development:

Erection of 22 dwellings with parking, landscaping and construction of new access at Allotments, Tumbling Field Lane, Tiverton.

Planning reference: 20/01263/MFUL

### REASON FOR REPORT:

At the Planning Committee of 14<sup>th</sup> April, Members were minded to refuse the application and therefore wished to defer the application for an implications report to consider the proposed reasons for refusal that of:

*“Policy DM6 was not applicable, Policy S10 was applicable and the Housing Needs Survey was inadequate.”*

### ORIGINAL OFFICER RECOMMENDATION(S)

Application recommended for approval subject to the signing of a s106 and conditions.

### Financial Implications:

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

### Legal Implications:

The report identifies the risks in proceeding with an appeal based on the reasons given by the Committee on 14<sup>th</sup> April 2021 – both in terms of outcome of an appeal and the risk of a costs decision. The Council will still need to prepare draft planning conditions for the appeal. External legal representation may be required if the appeal proceeds to a public inquiry. The applicant has already indicated that they plan to lodge an appeal should this planning application be refused.

### Risk Assessment:

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

## 1.0 INTRODUCTION:

1.1 At the meeting on 14<sup>th</sup> April 2021, Members indicated they were minded to refuse the application and therefore wished to defer the application for consideration of an implications report to consider the proposed reason for refusal, that of:

1. *Policy DM6 was not applicable, Policy S10 was applicable and the Housing Needs Survey was inadequate.*

## 2. CONSIDERATION OF THE PROPOSED REASONS FOR REFUSAL

During the committee, Members advised that they considered that Policy S10 ‘Tiverton’ applied to the consideration of the application, and that Policy DM6 was not relevant to the

application, as it was considered that the site was not within what was considered to be a 'rural area'. Furthermore, members also considered that the Housing Needs Survey was inadequate and did not provide sufficient up to date data to evidence that there was a need for this type of development in the area.

As a result of the above, officers conclude that the proposed reasons for refusal would be as follows:

1. That the proposed development of 22 residential units within this location would have a detrimental impact on the green setting as provided by the steep open hillsides, particularly to the west and south of the town, which would be contrary to Policy S10.
2. That the development would be contrary to Policy S14 in that it is not wholly for affordable housing and that it has not been demonstrated that there is a proven local need for the development.

This report seeks to set out the implications of choosing to proceed with a decision to refuse the application on the above grounds.

## **BACKGROUND:**

As Members will be aware, the Local Plan sets out a number of Planning Policies on which all applications are assessed against. The Local Plan is supplemented by a number of Policy Maps which provide an illustrated guide of the constraints of an area, also identifying whether it is within the defined settlement boundary, or outside of a settlement boundary.

As with the National Planning Policy Framework, when assessing an application, it is important that the Local Plan is read as a whole. This is because the Local Plan provides policies as a framework, and as a foundation to all the decisions made within development management. To not consider the plan as a whole, would be to exclude consideration to other relevant matters. For example, the need to apply weight to housing need, or sustainable travel.

At the front of the Local Plan, are the Strategic policies, and these as they imply, form the overall strategy and vision of the Local Plan. The Development Management policies are located further to the back of the plan and seek to deal more directly with proposed developments.

At Committee, members were of the view that Policy S10 applied to the assessment of the application.

As such, the report will now look at assessing the application against the criteria of Policy S10, and will demonstrate that even with the application being assessed against that of Policy S10, the proposal would still be considered acceptable, and therefore is not considered an appropriate reason to refuse the application.

### Assessment of the application against Policy S10

Policy S10 encompasses a range of objectives for the town of Tiverton.

Policy S10 states:

#### *Tiverton*

*Tiverton will continue to develop in a balanced way as a medium sized market town serving a rural hinterland in the central part of Mid Devon and to the north. The strategy will maintain its status as the largest urban area in Mid Devon and increase the self-sufficiency of the town and its area by improving access to housing, employment and services for its*

population and that of the surrounding rural areas. Proposals will provide for approximately 2,358 dwellings, of which 660 will be affordable, and 29,400 gross square metres of commercial floor space over the plan period.

The Council will guide high quality development and other investment to:

- a) Manage the town centre so that economic success and heritage reinforce each other, promoting new homes, shops, leisure, offices and key town centre uses which contribute to vitality and viability, including an additional 7,000 square metres of gross commercial floorspace in accordance with the sequential approach in Policy DM15;
- b) Enhance walking and cycling opportunities and bus services around the town, particularly improving access via these more sustainable modes to the town centre, Tiverton Parkway Station, Exeter and Taunton, and their interchange in the town centre;
- c) Retain the green setting provided by the steep open hillsides, particularly to the west and south of the town and the historic parkland of Knightshayes to the north of the A361;
- d) Protect the importance of Tidcombe Fen, other areas of biodiversity value and green infrastructure, supporting opportunities for enhancement;
- e) Enhance the tourism and visitor role of the town and surrounding area; and
- f) Support measures to reduce flood risk within Tiverton, working with natural processes wherever possible.

The supporting text of this policy states:

*2.59 Tiverton is the largest settlement in Mid Devon, with the largest economic concentration and level of social and commercial services. It is the focus of a reasonable level of public transport provision. However, the long-term options for Tiverton's growth are constrained by the town's topography, flood plains and the position of the A361. Cumulative traffic impacts on Junction 27 of the M5 must also be considered. While the evidence suggests that improvements to signalisation of the junction have provided capacity for planned strategic development in Tiverton, additional development may require improvements to the junction. Traffic assessments will be required where appropriate to consider impacts on the local and strategic road network.*

*2.60 As the largest town in the district, there is an expectation that Tiverton will deliver approximately 2,358 dwellings over the plan period. Recent completions and current commitments total over 1,750 dwellings. It is therefore expected that a significant proportion of the town's outstanding housing needs will be delivered as part of the Eastern Urban Extension allocation (TIV1-5), with the remainder provided by smaller allocations. Sites have been allocated in excess of the anticipated development levels to allow for flexibility in the supply of housing and employment, as discussed in paragraphs 2.1-2.16. A contingency site has been allocated within the town, forming part of the strategy for providing flexibility within the plan.*

*2.61 Retail forecasts identify a need for additional non-food retail floorspace in Tiverton. The Retail Study (2012) recommends that site allocations for retail development include the redevelopment and improvement of the bus station and existing open-air car parks. The area around Phoenix Lane in Tiverton is available, suitable and achievable for a mixed use redevelopment scheme.*

*2.62 Historically, the take-up of employment allocations in Tiverton has been slow, while the larger urban centres of Exeter and Taunton are established employment destinations and will continue to draw a large number of Mid Devon's working residents. The Employment Land Review (2013) advises on the locations and amounts of development appropriate in the towns. In accordance with this, the Tiverton Eastern Urban Extension is expected to provide 30,000 square metres of employment floorspace, phased to come forward in step with housing development. Employment development in this location, close to the A361, may*

*serve to claw back some of the jobs that are currently being lost to other settlements outside Mid Devon.*

On the basis that this Policy applies to the consideration of the application, then it is important to advise how officers consider that the proposal does meet the criteria of Policy S10. This has been set out below for clarity.

a) Manage the town centre so that economic success and heritage reinforce each other, promoting new homes, shops, leisure, offices and key town centre uses which contribute to vitality and viability, including an additional 7,000 square metres of gross commercial floorspace in accordance with the sequential approach in Policy DM15;

The development of the application site will provide additional housing, creating new homes, bringing people to the area. This will promote further economic benefit as well as contribute to the vitality and viability of the town centre, with more people likely to shop there. It is considered that the development would meet this criterion.

b) Enhance walking and cycling opportunities and bus services around the town, particularly improving access via these more sustainable modes to the town centre, Tiverton Parkway Station, Exeter and Taunton, and their interchange in the town centre;

The site is within walking distance of the town centre, as such, this would be a sustainable mode of transport, and will reduce reliance on the use of the private car. The development retains the public right of way adjacent to the site and will also provide a footpath to it. It is considered that the development meets this part of the criterion.

c) Retain the green setting provided by the steep open hillsides, particularly to the west and south of the town and the historic parkland of Knightshayes to the north of the A361.

During the Committee meeting, members were particularly concerned regards the impact of the development on this particular aspect of Policy S10.

The application is supported by a Landscape Visual Impact Assessment. This assessment has looked specifically at the impact the development would have on the immediate and surrounding area. It undertakes a comprehensive analysis of the land form in which the site sits within, in addition to assessing the development from a number of viewpoints in accordance with the Mid Devon's Landscape Character Assessment.

To begin, the assessment outlines that the site falls within a Landscape Character Area of '3C' – Sparsley settled farmed valley floors. This is defined as:

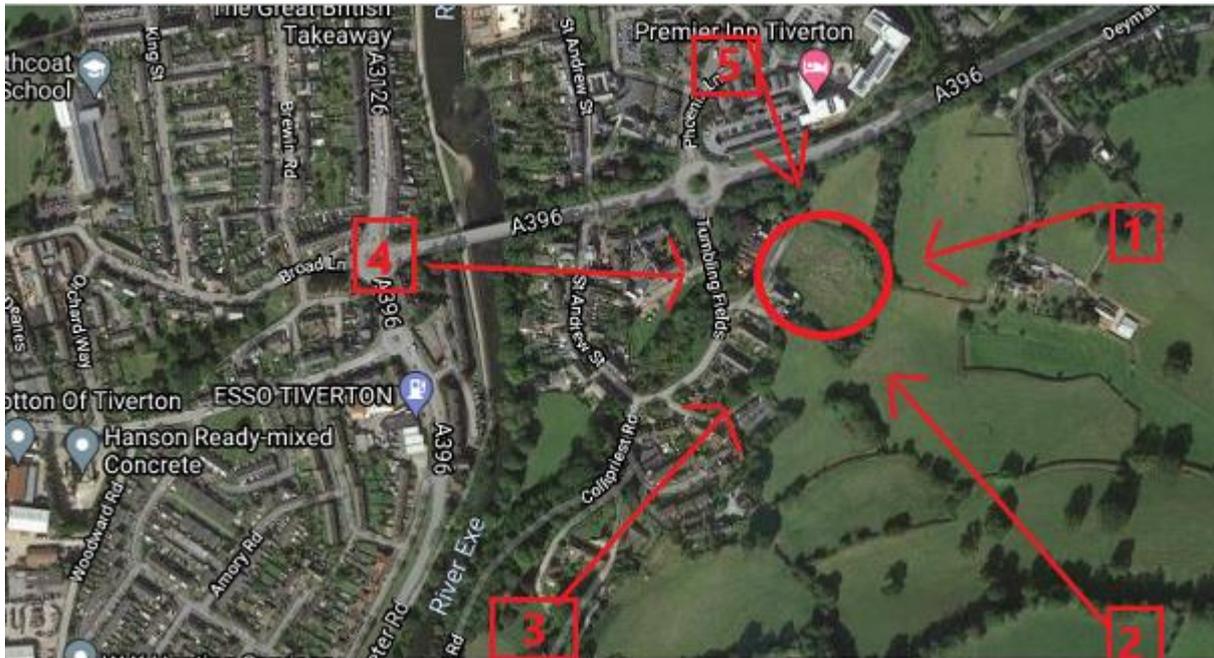
*The Sparsely Settled Farmed Valley Floor (LCT 3C) character is described as consisting of rivers or streams in relatively flat or gently sloping valley bottoms. Characteristics: Low lying flood plains; medium to small scale landscape characterised by relatively narrow strips of gently sloping or level land with a smooth surface topography; woodland pattern tends to be sinuous with scattered deciduous stands; pastoral landscape with locally improved grasslands within a mosaic of generally grazed to rough pasture; landscape has a higher degree of enclosure due to woods and hedges and rising ground as result there are reduced levels of visibility; sparsely populated.*



It is further noted, that the LVIA goes on to state:

*The Zone of Theoretical Visibility is mainly to the NE to SSW-of the site, however actual visibility is limited, due to the position of the site close to the town; the low lying position of the site within the valley at the confluence of the Rivers Exe and Lowman; the well wooded appearance and undulating nature of the landscape, and the predominantly farmed nature of landscape limiting public access.*

As noted in the above text, the site is low level. It sits amongst the urban backdrop of existing housing of Tumbling Field Lane. The site does not steeply rise, and topographically gently slopes to the south with the land levels starting at the far west of the site at +63.17, and moving to +70.21 at the far south/east of the site. The site sits adjacent to an existing housing development and in terms of scale, is only 0.74 hectares. This is a relatively small site and its development on low lying land is not considered to have an impact on the green setting of the open hillsides. The site is not on a hill and views to the site would be seen from the urban backdrop of the existing housing as illustrated below. When on roads near to the site, for example, the A396 or Exeter Hill, the site is screened by the trees and hedgerows that border these roads and as such, the site cannot be seen from the Town Centre of Tiverton either given the various buildings and trees that align the town. The illustration below seeks to demonstrate this with each viewpoint explained.



View point 1 – view into the site from the east, blocked by existing trees and hedgerows. If these trees and hedgerows were not there, then the development of the site with residential units, would read in context with the existing housing just to the north of the field, and to the immediate west.

Viewpoint 2 – Again blocked by trees and hedgerows. Furthermore, the land rises the further south you get, and views to the site would be limited. Any views that were present, would be read in conjunction with the existing housing development as noted under viewpoint 1. Views of Collpriest Road to the west of the site (as indicated by viewpoint 3) are more prominent on the landscape and extend out to the south more so than that of the subject site.

In regards to views from and to Cranmore Caste, the LVIA has looked at this in detail and below extract from the LVIA illustrates that trees and hedgerows block views to and from the site.

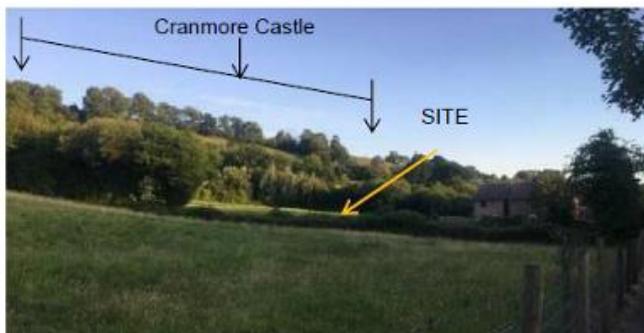


Photo A – View looking across the site to Cranmore Castle  
 – Indicating the section of the scheduled monument visible from the site, namely the north western boundary which is predominantly tree lined.

It is not considered that the development of this site would impact on the setting or the hillside associated with Cranmore Castle.

Viewpoint 3 – There would be very few glimpses of the site from here, given the existing housing developments that are already featured here. The site is low lying and as such, any buildings in front of the site would block views. The site cannot be said to be encroaching onto the hills of Tiverton, given that the town extends out further than the site from this angle.

Viewpoint 4 – As with the above, any view to the site would be blocked by existing urban development. As the site is low lying, and only gently slopes southwards, (topo levels at the far west of the site start at +63.17 it, with the far south/east of the site at +70.21) would be blocked from view by existing development.

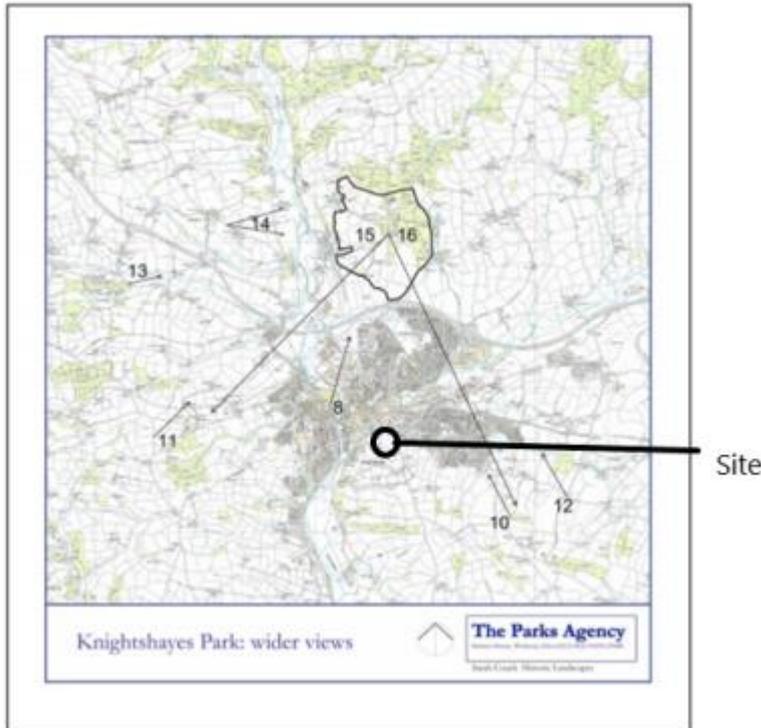
Viewpoint 5 – Views in from the town centre are again blocked by existing buildings, trees and hedgerow. The site is not visible, but the steeply sloping hills behind it are. As such, the development of the site, would not have an impact as the site sits below the hill of which views are apparent.

Given that Members will need to rely heavily upon criterion C for the refusal of the application, it is hoped that the above is clear in demonstrating that to refuse the application for such a reason of impact on the green hills around Tiverton would open the Council up to a likely award of costs and very likely situation of losing an appeal. It would be very difficult to defend the refusal of the application on this ground when evidence as illustrated above would likely demonstrate otherwise.

The submitted LVIA has been appended to this report and contains several images and viewpoints of the site, which further demonstrate that the development of the site, does indeed retain the green setting provided by the steep hills surrounding Tiverton.

Furthermore, officers have considered the impact of the development of the site in the context of the 'Setting of Knightshayes Park and Garden – Historic Landscape Assessment'. This document was prepared for the National Trust in 2007 and forms part of the evidence base for the adopted Local Plan 2013 – 2033.

The study identified that '*given its situation on a south-facing slope backed and flanked by woodland, the southern aspect of the visual envelope is more important. The central feature in the view is Tiverton, but equally important is the skyline of pastoral fields, hedgerows and plantations*'. However, the application site does not fall within any of the 'key views to and from Knightshayes in the wider landscape' that are identified within the study as demonstrated in the image below.

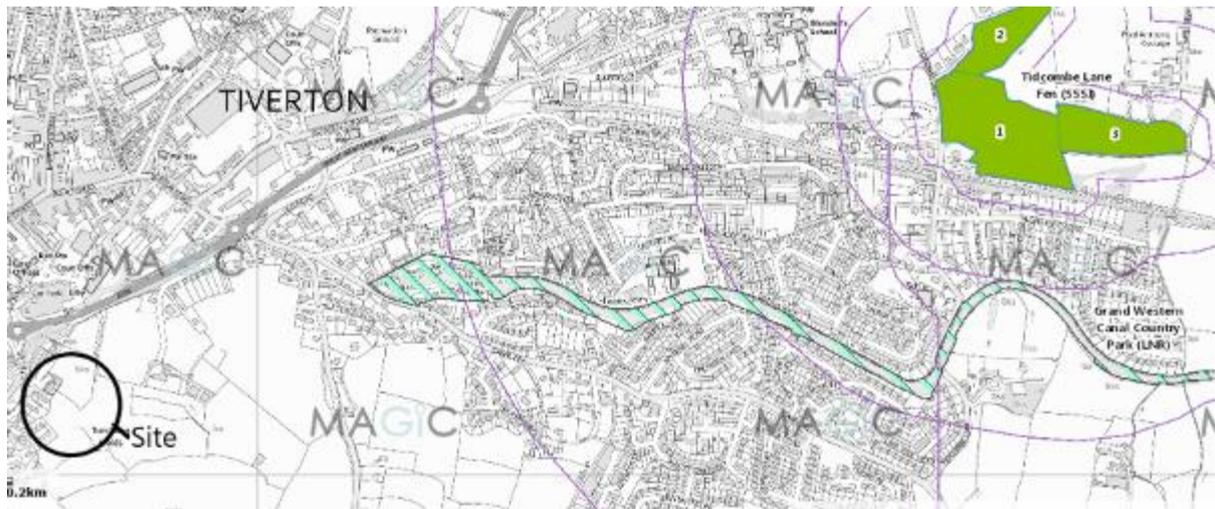


It can be concluded therefore that the development of the subject site is not considered to impact on the setting of the green hills surrounding Tiverton, nor that of any heritage asset.

d) Protect the importance of Tidcombe Fen, other areas of biodiversity value and green infrastructure, supporting opportunities for enhancement;

The Tidcombe Fen, (which lies between Tiverton and the main part of the Tiverton Eastern Urban Extension), is a 10.7ha Site of Special Scientific Interest (SSSI) and is a type of wetland habitat which is rare in Mid Devon. There is a wide variety of plant species unusual in its diversity, and fauna includes rare snail species. The key planning issues relevant to the Tidcombe Fen is the impact of development on the quality and flows of water entering the SSSI, and its water levels. Avoidance of harm to the catchment is therefore vital and where appropriate, contributions should be sought towards continued management of the SSSI and its catchment (the extent of the catchment area is defined in the policies map for Tiverton). Natural England were consulted as part of the application process and did not have any comments.

However, the application site is downstream and located some distance away from the Tidcombe Fen SSSI and its catchment area. In any case, Policy DM1 requires appropriate drainage, including sustainable drainage systems (SUDS) which will ensure appropriate management water quantity, quality, public amenity and biodiversity. The County Council's Flood and Coastal Risk Management team has no in-principle objections to the planning application at this stage, assuming that a number of pre-commencement planning conditions are imposed on any approved permission.



Map to show location of Fen from site – noting the distance.

e) Enhance the tourism and visitor role of the town and surrounding area;

The application will have a negligible impact on this matter. The development of this small scale site will not increase tourism, or visitors, but neither is it considered to have an impact on the attractiveness of Tiverton to tourists or visitors. The development is relatively small scale in nature and as discussed above, is not considered to impact on important views.

f) Support measures to reduce flood risk within Tiverton, working with natural processes wherever possible.

The application has been recommended for approval subject to a number of conditions which includes the need for a comprehensive drainage strategy. The submission of this would be reviewed by DCC Lead Local Flood Team to ensure that the development could be adequately drained prior to its construction. It is considered that this criterion can be met.

As the report has now assessed the application against that of Policy S10, it will now move on to look at the application of Policy DM6, and why officers consider that this policy is relevant in the determination of the application.

#### The application of Policy DM6 – Rural Exception Sites

At the committee meeting, Members considered that the application of Policy DM6 was not applicable to its determination.

Policy DM6 states:

#### Rural exceptions sites

*The development of a site for predominantly affordable or low-cost housing, including self-build housing, to meet proven local need in rural areas will be permitted where:*

*a) There is up-to-date evidence of housing need secured through a housing need survey or, in the case of a self-build proposal, evidence of eligibility for shared ownership housing through 'Help to Buy' or an equivalent scheme;*

*b) Each house will be occupied by at least one person with a strong local connection to the parish;*

*c) The site adjoins a settlement and is in a suitable location which takes account of the potential for any visual impact and other relevant planning issues;*

*d) The type and scale of affordable or low-cost housing is appropriate to the proven need;*

*e) The affordable or low-cost housing will remain affordable for and available to local people in perpetuity, limited to no more than 80% of its market value upon resale.*

The inclusion of a proportion of market housing within exception sites will be permitted where the proportion of market housing will be less than the provision of affordable or low-cost housing and the market housing will be at the lowest level necessary to ensure that the development is deliverable.

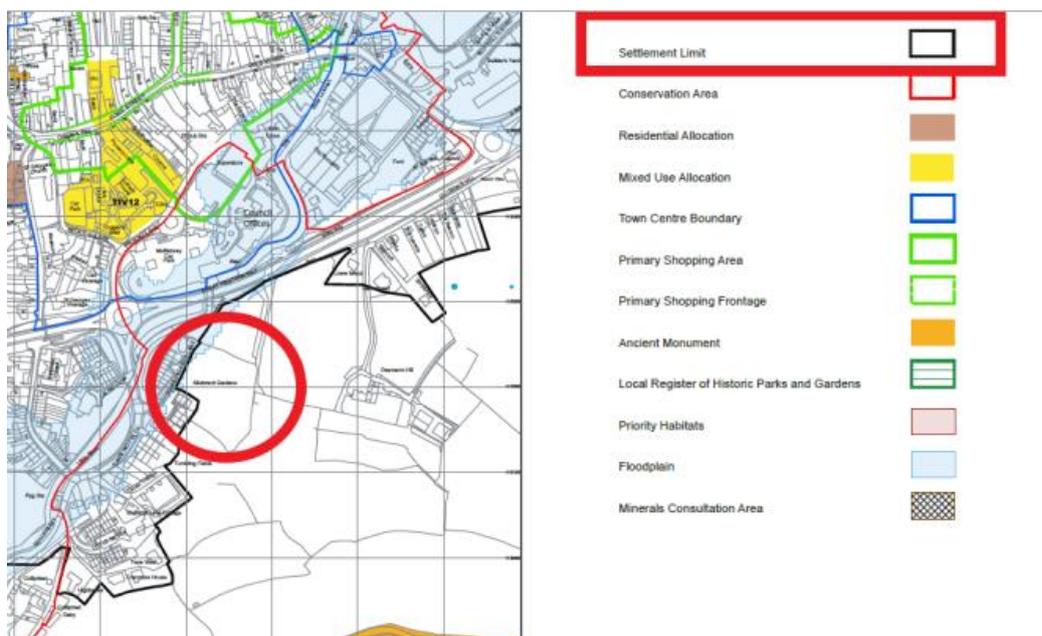
The supporting text to this policy advises that:

4.22 To encourage the delivery of affordable and low-cost housing in rural areas, exceptions can be made to the normal restrictions on housing development outside defined settlements. Exception sites must adjoin a settlement, which for the purposes of this policy will usually mean one of the settlements defined as suitable for limited development in Policy S13. However, some parishes do not contain a defined settlement but may have an affordable housing need, in which case a broader interpretation of 'settlement' will be appropriate, as long as there would be reasonable access to local services and infrastructure. Isolated sites in the countryside are not considered sustainable locations for new housing even under the exceptions policy.

4.23 Affordable and low-cost housing is reserved for those who cannot afford open market housing and have a connection to the local area. The definition of a 'local connection' is kept under review and as such it is appropriate that is contained in supporting guidance rather than determined through a Local Plan policy. In broad terms there should be a long-term residential, family or employment connection to the parish where the housing will be located. The criteria will be operated in a cascade, approved by Mid Devon District Council to ensure those with the strongest connection are considered first. A planning obligation will be required to ensure that the affordable or low-cost housing remains available for local people in perpetuity.

Officers consider that the application constitutes a rural exception site for the following reasons:

1. The site falls outside of the Tiverton settlement boundary as illustrated on the Policy map below.



Given that the site falls outside the settlement boundary, it is otherwise referred to as open countryside, where Policy S14 applies. This is explained at the front of the Local Plan where it states:

*Countryside – development in countryside areas outside defined towns and villages, including hamlets and other small settlements.*

As such, it should be agreed that the site falls within open countryside but as can be seen from the illustration above, the site clearly adjoins the settlement limit of Tiverton.

Policy DM6 states that “*exceptions can be made to the normal restrictions on housing development outside defined settlements. Exception sites must adjoin a settlement, which for the purposes of this policy will usually mean one of the settlements defined as suitable for limited development in Policy S13”.*

Whilst Tiverton is not a village named under Policy S13, the policy does note that it would only ‘usually’ fall within one of these areas, but this does not exclude the matter that it therefore can fall adjacent to another settlement. In this instance, as illustrated from the above image, the site is clearly adjacent to the Tiverton settlement boundary. Furthermore, if Policy DM6 was to only apply to the villages under Policy S13, then it would make that clear, rather than using the word ‘usually’.

It is therefore concluded that the site, given that it proposes affordable housing which only proposes an element of market housing for purposes of viability (as they are permitted to do under local and national planning policy), can be considered under Policy DM6.

The final supporting text are Policy DM6 advises that:

*“National policy allows for some ‘cross-subsidy’ of affordable housing by market housing. This allows for sites which would not otherwise be viable for affordable housing to come forward, with market housing limited to the minimum level necessary to ensure delivery. Consistent with the overall principle of exception sites, the proportion of affordable housing must always be greater than that of market housing, and developers will be expected to submit evidence to demonstrate that the level of market housing proposed is the lowest level needed to deliver significant affordable housing. Evidence of local need for affordable housing will be required, as for any rural exception scheme. The Council will have regard to any up-to-date local housing need surveys and information from Devon Home Choice.”*

As discussed at the Committee, the application is supported by a viability assessment that explains why cross subsidy of market housing is required on this occasion. The next part of the assessment as outlined in the original committee report, is to demonstrate that there is a ‘need’ for the development which can be assessed against the surveys and information from Devon Home Choice. This leads me on to addressing the next concern of the planning committee which was the matter that the housing needs survey information provided at the time of the planning committee was inadequate.

#### Housing need

The Strategic Housing Market Assessment that underpins the Local Plan concluded that 124 units of affordable housing are needed per year to meet future needs arising (i.e. not including any backlog) in the district. This is equivalent to about 30% of the total housing need for Mid Devon. This is reflected in the affordable housing policy, which requires development to meet this need by providing a proportion of dwellings as affordable. However, the plan recognises that the level of affordable housing supply is unlikely to meet

the anticipated need as not all allocations will come forward or others may be developed for a lower housing number than specified in the policy. For this reason, the local plan includes permissive policy to allow additional affordable housing to come forward as windfalls resulting from Homes England investment, exception sites and delivery of housing on Council-owned land. This follows the approach set out in the National Planning Policy Framework and is a policy mechanism to encourage the delivery of affordable and low-cost housing via an exception to the normal restrictions on housing development outside defined settlement limits. This relates directly to the proposed application.

The application site falls outside of the settlement limit, as evident by reference to the adopted Policies Map for Tiverton. Policy S14 is explicit that ‘developments outside the settlements defined by Policies S10 –S13 will preserve and where possible enhance the character, appearance and biodiversity of the countryside while promoting sustainable diversification of the rural economy’. In respect of housing, detailed development management policies apply, in this instance, Policy DM6, (rural exception sites).

An assessment of the application proposals against the requirements of Policy DM6 was undertaken as part of the Committee Report and is again noted here for ease of reference.

Criterion a) requires that there is up-to-date evidence of housing need. The Housing Manager confirmed as part of the application that there is a need for affordable housing in the area, including wheelchair accessible units. Data from Devon Home Choice indicates a demand for the following:

Band	Housing Type	Housing Needs Requirement Size					
		1BH	2BH	3BH	4BH	5BH	6BH
Total	General needs	110	49	53	22	4	0
	Step free	26	9	3	2	0	0
	Max 3 steps	1	1	1	0	1	0
	Wheelchair	11	3	1	1	1	0
	Grand Total	148	62	58	25	6	0

Criterion b) requires that each house will be occupied by at least one person with a strong local connection to the parish. The Committee Report confirms that this matter can be controlled via the provision of the S106 that will ensure that only individuals with a strong local connection will be able to apply for the affordable homes proposed.

Criterion c) requires that the site adjoins a settlement and is in a suitable location, which takes account of the potential for the visual impact and other relevant planning issues. How the development meets this criterion has already been discussed above and within the Committee Report.

Criterion d) requires that the type and scale of affordable or low cost housing is appropriate for the proven local need. Again, the Committee Report notes that the affordable housing statement submitted has identified a need for the development in Tiverton, and the Council’s Housing Manager has agreed that such development is required. Furthermore, four of the units will be wheelchair accessible, which is required within the area and will help secure these much-needed homes for those with this particular need.

Criterion e) requires that the affordable or low cost housing will remain affordable for and available to local people in perpetuity limited to no more than 80% of its market value upon resale. Again, this matter will be controlled via the s106 that will be drafted, agreed and signed by all parties.

Finally, the policy notes that the inclusion of a proportion of market housing within exception sites will be permitted where the proportion of market housing will be less than the provision of affordable or low-cost housing and the market housing will be the at the lowest necessary to ensure that the development is deliverable. In considering whether the level of market housing is the lowest necessary to ensure a deliverable development, the Council commissioned an independent viability assessor to assess the applicant's viability report. The Council's independent advisor concluded that the proposal as submitted for 12 affordable and 10 open market units is considered acceptable.

Accordingly, your Officers consider that the application as submitted could help contribute towards meeting proven local affordable housing needs and meets all necessary tests set out within Policy DM6. On this basis, your Officer's are of the opinion that refusal of this current application based on affordable housing need, and compliance with Policies S10, S14 and DM6 could not reasonably be justified in the context of the available evidence.  
Costs/Appeal

## **CONCLUSION**

This report has been prepared to outline to Members the implications of refusing the proposed development at Tumbling Fields on the grounds of the following:

1. That the proposed development of 22 residential units within this location would have a detrimental impact on the green setting as provided by the steep open hillsides, particularly to the west and south of the town, which would be contrary to Policy S10.
2. That the development would be contrary to Policy S14 in that it is not wholly for affordable housing and that it has not been demonstrated that there is a proven local need for the development.

It is considered that the report has clearly demonstrated that to refuse the application on the above grounds would not be justified and is likely to lead to the loss of an appeal and a potential award of costs.

The application has been assessed against Policy S10 as Members considered it should be, and the analysis has shown that the application would still meet all of the criterion associated with this policy. The report has also explained why officers consider that Policy DM6 applies in this instance, and furthermore, why Policy S14 applies, given the site's location outside of the defined settlement boundary.

The report has then moved on to explore the Housing need data in more detail and it is considered that the development of this site, will indeed contribute to meeting this need within Tiverton and the wider area.

It is therefore recommended that Members approve the application as per the original recommendation, subject to conditions.

Contact for any more information

Angharad Williams, Area Team Leader –  
[awilliams@middevon.gov.uk](mailto:awilliams@middevon.gov.uk)

Background Papers

Committee report

File Reference

20/01263/MFUL

Circulation of the Report

Attach previous Committee report & Supporting Landscape Visual Impact Assessment

## **Original Report – Planning Committee 14<sup>th</sup> April 21**

**APPLICATION NO: 20/01263/MFUL**

**Site Visit: No**

**Decision Delayed Reason: Required to go to Planning Committee**

**MEMBER CALL-IN**

**RECOMMENDATION**

Grant permission subject to a signed S106 and conditions

**PROPOSED DEVELOPMENT**

Erection of 22 dwellings with parking, landscaping and construction of new access.

**RELEVANT PLANNING HISTORY**

05/00226/PE - REC date Residential development

09/00392/PE - REC date Proposed development

09/01340/PE - CLOSED date 13th April 2016 Residential development

20/01263/MFUL - PCO date Erection of 22 dwellings with parking, landscaping and construction of new access.

**OTHER HISTORY**

19/00154/PREAPP - CLO date 27th October 2020

PROTECT: Proposed residential development

**DEVELOPMENT PLAN POLICIES**

**National Planning Policy Framework**

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

Policies:

S1 – Sustainable Development Priorities;

S3 – Meeting Housing Needs

S5 – Public Open Space

S8 – Infrastructure

S9 – Environment

S14 – Countryside

DM1 – High Quality Design

DM3 – Transport and Air Quality

DM4 – Pollution

DM5 – Parking

DM6 – Rural Exception Sites

DM25 – Development Affecting Heritage Assets

**Draft Tiverton Neighbourhood Plan**

## CONSULTATIONS

### **TIVERTON CIVIC SOCIETY - 27 August 2020**

Tiverton Civic Society wish to record our objection to this Planning Application.

Our principal reasons for objection are:

1. The site is unsuitable because it is located on a steep slope with often waterlogged soils, which have little infiltration and high levels of surface runoff, and the multiple springs on the surrounding hillside result in the many exceedance channels which run across the site. Experience locally of identical geology, hydrology, and soils elsewhere on this north-facing slope has demonstrated that these conditions can lead to soil creep, slumping and subsidence to properties.
2. The more rapid runoff from the impermeable surfaces resulting from this development would add to the risk of flood damage for the properties lower on the slope and in the lower Lowman valley. Severe flooding from the River Lowman has occurred on many occasions in the southern end of St Andrew Street, four properties being severely damaged in 2014.
3. The land in this application is largely in Flood Zone 1, but the access is in Flood Zone 3, which has a high risk of flooding, and, in their consultation, the Environment Agency state this is unacceptable without a full Flood Risk Assessment (FRA).
4. On page 29 of the Proposed Housing, Landscape and Visual Assessment, which is part of this application, it is acknowledged that 'the proposed development will have a permanent adverse effect, placing housing into a greenfield area,' that there will be 'alteration to landscape character' and that there will be 'partial alteration to key features and characteristics giving a noticeable change', necessitating 'high quality buildings and mitigation measures to generate an acceptable scheme to fit into the context of the area.' This is an attractive area of high landscape value and good quality farmland which should never be developed for housing or other urban uses.
5. This land is not designated for housing in the adopted Mid Devon Local Plan Review, there is ample land allocated for residential development elsewhere within the settlement boundary and MDDC have demonstrated that a five year supply of deliverable sites will be maintained over the initial five years and subsequent periods, starting in 2020. No need for this speculative application has therefore been shown.
6. The Draft Tiverton Neighbourhood Plan states that the views of the surrounding landscape from Tiverton are 'a defining characteristic of the area' and that the 'green horizon' visible from locations throughout the settlement is a special feature that the local community are keen to preserve. Policy T7 reads:  
'The Setting of Tiverton contributes greatly to its character. Views of the green horizon out of the town and the main approaches to the town play key roles in its setting. Proposals with significant harmful impacts on the setting of Tiverton will not be permitted'  
A particularly valued view listed in the Neighbourhood Plan is that from Phoenix Lane and the southern part of the town towards Cranmore Castle and the Exe Valley, and the proposed new development would compromise this view of 'rolling farmland and woodland'.
7. The impressive listed 15 hectare Cranmore Castle, is the largest hillfort in Devon in terms of area, and it is a Scheduled Ancient Monument. It dominates the landscape south of the town, and it lies immediately above the proposed development. NPPF Paragraph 134 states that 'where a development proposal would lead to less than substantial harm, that harm will be weighed against any public benefit, including securing optimum viable use.' We consider that, the proposed development represents 'less than substantial harm', compromising the setting of Cranmore Castle, and that the public benefit is of lower value than the harm which would be created.
8. This is a valuable historical landscape on the edge of a historic settlement, and many artefacts have been found in this area including flint scatters. Development of this site should not be considered before a full archaeological investigation has been carried out.

### **HISTORIC ENVIRONMENT TEAM - 15th October 2020**

I refer to the above application and your recent consultation. Assessment of the Historic Environment Record (HER) and the details submitted by the applicant do not suggest that the scale and situation of this development will have any impact upon any known heritage assets.

The Historic Environment Team has no comments to make on this planning application.

### **HISTORIC ENVIRONMENT TEAM - 14 January 2021**

The archaeological fieldwork has been completed at the above site. This work has been undertaken in accordance with the approved Written Scheme of Investigation. A report setting out the results of the archaeological investigations has been sent to this office by the archaeological contractor, AC archaeology.

In the light of this new information I would like to withdraw the Historic Environment Teams objection and do not consider that any further heritage mitigation is required.

The Historic Environment Team has no additional comments to make on this planning application

### **ENVIRONMENT AGENCY - 14/08/2020 - Environment Agency position (Please note further repose on next page)**

In the absence of a Flood Risk Assessment (FRA), we object to this application and recommend that the application is not determined until a satisfactory FRA has been submitted.

The reasons for this position are set out below.

#### Reasons - Flood Risk

Whilst the dwellings will be located within Flood Zone 1 (low probability of flooding), the access to the application site lies within Flood Zone 3 defined by the Environment Agency Flood Map as having a high probability of flooding. Paragraph 163, footnote 50 of the National Planning Policy Framework (NPPF) requires applicants for planning permission to submit an FRA when development is proposed in such locations.

Paragraph 7-038 of the Planning Practice Guidance (PPG) and paragraph 160 of the NPPF are clear that access and egress needs to be part of the consideration of whether new development will be safe. Paragraph Reference ID: 7-039-20140306 of the PPG provides further guidance. It is important that an FRA is submitted to assess the risks to the access/egress route.

An FRA is vital if the local planning authority is to make an informed planning decision. In the absence of an FRA, the flood risk resulting from the proposed development are unknown. The absence of an FRA is therefore sufficient reason in itself for a refusal of planning permission.

#### Overcoming our objection

The applicant can overcome our objection by undertaking an FRA which demonstrates that the development (including proposals for access/egress) is safe from flooding over its lifetime without increasing risk elsewhere and where possible reduces flood risk overall. If

this cannot be achieved we are likely to maintain our objection to the application. Production of an FRA will not in itself result in the removal of an objection.

The applicant should also prepare a flood plan which outlines how they will respond to a flood. Further advice on this can be found in the following links:  
<https://www.gov.uk/prepare-for-a-flood>

#### Advice to LPA - Access/Egress

The Environment Agency does not normally comment on or approve the adequacy of flood emergency response procedures accompanying development proposals, as we do not carry out these roles during a flood. Our involvement with this development during an emergency will be limited to delivering flood warnings to occupants/users covered by our flood warning network.

The Planning Practice Guidance to the National Planning Policy Framework states that those proposing developments should take advice from the emergency services when producing an evacuation plan for the development as part of the flood risk assessment.

In all circumstances where warning and emergency response is fundamental to managing flood risk, we advise local planning authorities to formally consider the emergency planning and rescue implications of new development in making their decisions. As such, we recommend you consult with your Emergency Planners and the Emergency Services to determine whether the proposals are safe in accordance with the guiding principles of the Planning Practice Guidance (PPG).

Further guidance has been produced by us and ADEPT to support local authority planners in understanding what information they need to ask applicants to provide with their planning applications. This can be viewed at:  
<https://www.adeptnet.org.uk/floodriskemergencyplan>

In the absence of an FRA we are unable to advise you on the likely duration, depths, velocities and flood hazard rating against the design flood event for the development proposals. This does not mean we consider that the access is safe, or the proposals acceptable in this regard. We remind you to consult with your Emergency Planners and the Emergency Services to confirm the adequacy of the evacuation proposals.

#### Advice to LPA - Flood Risk Sequential Test

The dwellings themselves will be located within Flood Zone 1. However given that the primary vehicular access route lies within Flood Zone 3, your Authority will need to take a view on whether it would be appropriate to apply the flood risk Sequential Test. For information, an appeal for a site on land to the rear of Royal Oak House, Fore Street, Bridestowe (Ref. APP/Q1153/A/10/2127030, dated 27 September 2010) has supported the need for the test to be applied in circumstances where a development is within Flood Zone 1 but the access is within Flood Zone 3.

There are also appeals at Trelidon Lane, Dowlerry (Ref. APP/D0840/W/15/3137961, dated 20 February 2016) and Primrose Dell, Polgooth (Ref. APP/D0840/W/16/3163288, dated 13 March 2017) where it was confirmed that the Sequential Test should be applied even though only a small part of these sites were at risk from flooding.

#### Advice to the LPA

We will maintain our objection until the applicant has supplied information to demonstrate that the flood risks posed by the development can be satisfactorily addressed. We would like to be re-consulted on any information submitted to address our concerns and we will provide you with bespoke comments within 21 days of receiving formal re-consultation.

If you are minded to approve the application at this stage contrary to this advice, we request that you contact us to allow further discussion and/or representations from us.

### **ENVIRONMENT AGENCY - 12th November 2020**

We have no objection to the proposal but we do have some advice.

#### Reason

As the development lies wholly within Flood Zone 1, there are no concerns regards the development itself. However the proposed main access route along Hamblin Road lies within Flood Zone 3 and we would therefore advise the LPA of the following

The Environment Agency does not normally comment on or approve the adequacy of flood emergency response procedures accompanying development proposals, as we do not carry out these roles during a flood. Our involvement with this development during an emergency will be limited to delivering flood warnings to occupants/users covered by our flood warning network. The Planning Practice Guidance to the National Planning Policy Framework states that those proposing developments should take advice from the emergency services when producing an evacuation plan for the development as part of the flood risk assessment.

In all circumstances where warning and emergency response is fundamental to managing flood risk, we advise local planning authorities to formally consider the emergency planning and rescue implications of new development in making their decisions. As such, we recommend you consult with your Emergency Planners and the Emergency Services to determine whether the proposals are safe in accordance with the guiding principles of the Planning Practice Guidance (PPG).

We have considered the findings of the FRA in relation to the likely duration, depths, velocities and flood hazard rating against the design flood event (1 in 100 year plus climate change) for the access/egress route. We agree the levels survey provided indicates that the entrance to the development on Hamblin Road will be "a danger to some people (e.g. the elderly and infirm)"

However, in order to reach the Hamblin Road entrance the emergency service would need to pass through areas of Flood Zone 3 which have not been accessed and could be at a greater hazard than those at the entrance to the site.

The FRA however does suggest alternative access routes.

1. To the north east via a public right of way to the Great Western Way, which is also indicted as being in Flood Zone 2 and
  2. To the East towards Deyman's Hill, which is indicated as being in Flood Zone 1.
- Both of these alternative routes do not appear to provide complete vehicle access.

We would recommend that a Flood Warning and Evacuation Plan is included as part of the FRA identifying flood evacuation routes to areas located within Flood Zone 1 to allow the LPA to access the flood risk.

This does not mean we consider that the access is safe, or the proposals acceptable in this regard. We remind you to consult with your Emergency Planners and the Emergency Services to confirm the adequacy of the evacuation proposals.

### **Highway Authority - 27/08/2020 - 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 01/01/2015 and 31/12/2019 is none.

The existing access does have the appropriate visibility requirements for the speeds in this area and looks not to be on any third party lane. This existing area which is proposed to be the access road for the 22 dwellings is a private parking area. At the access point onto the existing public highway is a bank which looks to retain this parking area.

There are footway links to the town centre which all have appropriate crossing points across the A396. The connection to the town centre amenities and bus stops are within the guidance for walking distances.

The proposal shows 40 parking spaces for 22 dwellings which meets with the guidance.

The number of trips 22 dwellings could generate would not be a severe impact on the Highway Network.

Drawing 110 S38 & S278 Highways Layout, shows the internal Surface Water drainage pipes to be adopted by Devon County Council. The Drainage calculations for this would need to be checked by Devon County Council Flood Management team and the outfalls should also be shown on a drawing including any private existing gully positive pipe work and the construction and condition.

#### A Note to the Applicant

There is no drawing within the application showing how this bank is constructed and whether this bank would be suitable to retain the area with the proposal of 22 dwellings and the associated traffic which this development could generate. Technical Approval is required for all new and existing structures with potential highway implications whether or not it is eventually intended to be adopted by the County Council. The proposed access road also has no drawings to show the existing construction details to show this is built to the Devon County Council Adoptable Standard.

The Highway Authority has no objection to the proposed development, as it is the applicant's intention to offer any of the highway included in the application for adoption as maintainable highways, permission under the Town and Country Planning Act should not be construed as approval to the highway engineering details necessary for inclusion in an Agreement under Section 38 of the Highways Act 1980.

#### 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.

4. No other part of the development hereby approved shall be commenced until the proposed access road and retaining structure details have been submitted to, and approved in writing by, the Local Planning Authority and retained for that purpose at all times

REASON: To ensure highway safety for the traffic attracted to the site

Officer authorised to sign on behalf of the County Council 20 August 2020

### **TIVERTON TOWN COUNCIL**

Council feels this proposal is over development and would result in a loss of valuable green land. There would also possibly be harm to wildlife. There are a number of water springs on this land which makes it, in the opinion of this council, to be unsuitable for dwellings

### **WASTE and TRANSPORT MANAGER - 25th August 2020**

Paragraph 8 of the National Planning Policy for Waste and Policy W4 of the Devon Waste Plan requires major development proposals to be accompanied by a Waste Audit Statement.

The document submitted with this application is not sufficiently detailed to meet the requirements of Policy W4: Waste Prevention of the Devon Waste Plan.

Within the submitted Waste Audit and Minimisation Statement, the applicant has made an attempt to identify targets for the re-use, recycling and recovery for each waste type during construction, demolition and excavation of the development as well as demonstrating the provisions made for the management of any waste generated to be in accordance with the waste hierarchy. However the document is lacking in detail in its current form.

The following points need to be addressed in the statement:

1. The amount of construction, demolition and excavation waste in tonnes.
2. Further information on the type of material the waste will arise from during construction, demolition and excavation.
3. Identify in more detail targets for the re-use, recycling and recovery for each waste type during construction, demolition and excavation of the development
4. The predicted annual amount of waste (in tonnes) that will be generated once the development is occupied.
5. Identify the main types of waste generated when development is occupied (If possible)
6. Provide further detail of the waste disposal method including the name and location of the waste disposal site.

Devon County Council has published a Waste Management and Infrastructure SPD that provides guidance on the production of Waste Audit Statements. This includes a template set out in Appendix B, a construction, demolition and excavation waste checklist (page 14) and an operational waste checklist (page 17). Following the guidance provided in the SPD will enable the applicant to produce a comprehensive waste audit statement that is in accordance with Policy W4: Waste Prevention of the Devon Waste Plan. This can be found online at: <https://www.devon.gov.uk/planning/planning-policies/minerals-and-waste-policy/supplementary-planning-document>.

**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. (12.08.20).

### **Air Quality**

No objection to this proposal. (12.08.20).

### **Environmental Permitting**

No objection to this proposal. (11.08.20).

### **Drainage**

No objection to this proposal. (12.08.20).

### **Noise & other nuisances**

Before the commencement of development, a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority. The CEMP shall identify the steps and procedures that will be implemented to minimise the creation and impact of noise, vibration, dust and waste disposal resulting from the site preparation, groundwork and construction phases of the development and manage Heavy/Large Goods Vehicle access to the site. It shall include details of the hours of operation and measures to be employed to prevent the egress of mud, water and other detritus onto the public and any non-adopted highways. Once approved the CEMP shall be adhered to at all times, unless otherwise first agreed in writing with the Local Planning Authority. (12.08.20).

### **Housing Standards**

The layout of a number of these plots means that the bedrooms are inner rooms and there is no safe primary means of escape in the event of a fire. The stairs descend directly to a high risk area being the open plan living and kitchen space. The ideal would be for the bedrooms/stairs to descend to a hallway with access directly out of the property to a place of safety. The layout to plot 15 is a particular concern with the bedroom situated at the furthest point to the exit which is through the high risk rooms. (21.08.20).

### **Housing Manager**

There is a need for affordable housing in the area, including wheelchair accessible units

### **Licensing**

No comments. (20.08.20).

### **Food Hygiene**

No comments. (11.08.20).

### **Private Water Supplies**

Not applicable. (13.08.20).

### **Health and Safety**

No comments. (11.08.20).

**FLOOD and COASTAL RISK MANAGEMENT TEAM - 1 September 2020 (Please note updated response below)**

**Recommendation:**

At this stage, we object to this planning application because we do not believe it satisfactorily conforms to Policy DM2, specifically part (f), of Mid Devon District Council's Local Plan (Adopted October 2013), which requires developments to include sustainable drainage systems. The applicant will therefore be required to submit additional information in order to demonstrate that all aspects of the proposed surface water drainage management system have been considered.

**Observations:**

- o We only accept FEH rainfall for new applications in line with best practice. The FSR is based on a dataset from 1970s and is out-of-date.
  - o The Micro Drainage outputs indicate a hydrobrake flow control with a diameter of 47 mm which has the potential to cause blockage of the system. The applicant should revise the runoff rates based on a larger diameter flow control device.
  - o The applicant should submit the Phase 2 Preliminary Ground Investigation Report (GCE00969/R1) as mentioned in section 2 of the Drainage Statement, to the local planning authority. We require evidence of the infiltration test results.
  - o The applicant should provide clarification on what flood protection measures are being referred to on the eastern site boundary as shown on Drawing No. 200 rev B in the Drainage Statement Appendix B.
  - o We are happy to see a swale proposed within the design of the surface water system however we would require evidence that the swale is situated entirely out of the fluvial flood zones which encroach onto the site in this area.
  - o We note that there are a series of existing ditches that transverse the site. The applicant should mark these on a plan and provide assurance that with the diversions of the ditches, the capacity of the ditches won't be compromised.
  - o The diversion of the proposed ditches is likely to require a Land Drainage Consent from Devon County Council's Flood and Coastal Risk Management Team prior to any works commencing. Details of this procedure can be found at: <https://new.devon.gov.uk/floodriskmanagement/land-drainage-consent/>. Any connection into the watercourse will require a consent from the Environment Agency and the watercourse is a Main River.
- We would be happy to provide another substantive response if additional information is submitted to the local planning authority.

**FLOOD and COASTAL RISK MANAGEMENT TEAM – 21 October 2020**

**Recommendation**

Our objection is withdrawn and 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 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 Flood Risk Assessment - Reference 19026 dated October 2020, and Drainage Strategy - Drawing Number 200 Revision C.
- (b) Detailed proposals for the management of surface water and silt runoff from the site during construction of the development hereby permitted.
- (c) Proposals for the adoption and maintenance of the permanent surface water drainage system.
- (d) A detailed assessment of the condition and capacity of any existing land drainage system that will be affected by the proposals. The assessment should identify and commit to, any

repair and/or improvement works to secure the proper function of the surface water drainage receptor.

(e) Evidence there is agreement in principle from the landowner to connect into their system. No building hereby permitted shall be occupied until the works have been approved and implemented in accordance with the details under (a) - (e) above.

Reason: The above conditions are required to ensure the proposed surface water drainage system will operate effectively and will not cause an increase in flood risk either on the site, adjacent land or downstream in line with SuDS for Devon Guidance (2017) and national policies, including NPPF and PPG. The conditions should be pre-commencement since it is essential that the proposed surface water drainage system is shown to be feasible before works begin to avoid redesign / unnecessary delays during construction when site layout is fixed.

**Observations:**

Following my previous consultation response (FRM/MD/01263/2020) dated 1 September 2020, the applicant has submitted additional information in relation to the surface water drainage aspects of the above planning application, for which I am grateful.

Email from Jamie Law to Devon Flood Risk on 8 October 2020 at 12:49

Flood Risk Assessment - Reference: 19026 - dated October 2020

Ground Investigation Report - Reference: GCE00969/R1 - dated September 2019

Proposed Drainage Strategy - Drawing Number: 200 Revision C

The applicant has submitted a surface water runoff strategy that proposes an underground attenuation structure, which along with runoff from the proposed highway, will discharge into a swale which then conveys surface water runoff at greenfield rate to an existing ditch on site. Exceedance flows will be directed into an existing ditch by a proposed earth bund. The applicant may wish to consider, where possible, the re-use of onsite material in the construction of the bund.

The proposed swale should be landscaped and incorporated into the model at detailed design stage.

**FLOOD and COASTAL RISK MANAGEMENT TEAM - 17/03/2021 –**

**Observations:**

The most recently submitted Flood Risk Assessment is reference 19026, dated October 2020 and appears to be the same document that was the basis of my recommendations in my consultation response on 16 October 2020.

I therefore, have no further comments or recommendations to make

**HOUSING ENABLING & BUSINESS SUPPORT MANAGER - 07.10.20**

Tiverton still has a high need for Housing. We also need some wheelchair properties in the district, not sure if this is something which can be included.

**Forward Planning - 5th October 2020**

Thank you for your query. Based on the information you've provided below you have rightly linked the application to DM6 'Rural Exception Sites'. This policy does allow for market subsidy but this should be permitted where the proportion of market housing will be less than the provision of affordable or low-cost housing and the market housing will be at the lowest level necessary to ensure that the development is deliverable. This position is the same as the previous Local Plan in LP3 DM9 'Cross Subsidy of affordable housing on exception sites' and therefore the recent adoption of the Local Plan should not have affected the policy position with regard to this element.

You also note the site is a former MDDC allotment, it may be worth ensuring that the site also complies with DM24 Protection of Local Green Space and recreational land and

buildings, the position in this policy is also the same as the previous Local Plan in LP3 DM26 Protection of recreational land and buildings and therefore the recent adoption of the Local Plan should not have affected this policy position either. Although given that you note the site is 'former' it may be that the site would not be identified under this policy.

You note their intention is to provide all 22 dwellings as affordable. Although their intention would meet the policy requirements, as you have noted their application does not reflect this, with only 35% affordable dwellings proposed therefore this does not meet policy requirements with regard to DM6. The recent adoption of the Local Plan would not have changed the policy position with regard to the proportion of market housing on an exceptions site and therefore the advice at pre-app should not have been significantly different to the basis of the newly adopted Local Plan.

If you would like to discuss further please do get back in touch with us.

### **Forward Planning 7th October 2020**

If the application is for 20 dwellings or more then the 5% custom and self-build policy requirement kicks in. For a proposal of 22 dwellings this would equate to the requirement to provide 1 serviced plot.

### **Forward Planning 19th October 2020**

Query regarding provision of self build from Officer – response:

Given that the rural exceptions policy is a distinct and separate policy approach, whereby market housing is only permitted to facilitate financial viability (and therefore the market provision is the lowest level necessary to make the scheme viable) we wouldn't want to undermine this as a result of the 5% policy.

### **DEVON, CORNWALL & DORSET POLICE**

Re Erection of 22 dwellings with parking, landscaping and construction of new access at Allotments, Tumbling Field Lane, Tiverton ' 24th August 2020

Thank you for this application.

Police do have some concerns from a designing out crime view that require attention. It is now widely accepted that a key strand in the design of a 'sustainable' development is its resistance to crime and anti-social behaviour.

From a designing out crime and disorder perspective it is vital that the parking provision for the proposed development is both enough when balanced against the schedule of accommodation, as even a one-bedroom dwelling could attract 2 vehicles, and designed that it is convenient and practical to use, for example, side by side parking as oppose to tandem style parking, as this will encourage its use and reduce the level of unplanned parking elsewhere. It is the 'elsewhere parking' that can introduce a source of conflict and rancour amongst residents, generally due to inconsiderate or obstructive parking and chaotic and vehicle dominated streets.

With reference to 'tandem' parking above, there is ever increasing evidence from new development in the county where this design of parking is not being embraced, perhaps due to being inconvenient or just awkward to use, seeing the 2nd (or 3rd) vehicle being parked elsewhere just to make life easier for the occupants. It is appreciated that the tandem parking design is likely to fulfil the number of parking spaces required for new development, but this number is likely to be much reduced if the spaces are not being utilised. In addition to this the problems associated with tandem parking are further exacerbated when designed to the front of a garage or car port.

The proposed private secure parking courts and 6 spaces for Hamlin Close do not, as stated, appear to be well overlooked, with the spaces being disconnected from the associated dwelling, the majority of plots do not have line of sight to the allotted parking spaces. This places the burden of surveillance on those residents immediately adjacent to the parking courts and regrettably, there is overwhelming evidence to suggest that unless a

crime/ASB directly involves a member of the public, many will not report it for fear of repercussions. Residents will also look to park as near to their choice of main access point, resulting in parking in visitor spaces, on footpaths and verges, creating potential for community conflict between residents and motorists.

Rear parking courtyards are discouraged for the following reasons:

'They introduce access to the vulnerable rear elevations of dwellings where the majority of burglary is perpetrated;

'In private developments such areas are often left unlit and therefore increase the fear of crime;

'Un-gated courtyards provide areas of concealment which can encourage antisocial behaviour.

Where rear parking courtyards are considered absolutely necessary, they must be protected by a lockable gate to provide resident only access.

Best practice suggests, where communal parking areas are necessary, bays should be sited in small groups, close and adjacent to homes, be within view of active rooms and allocated to individual properties. The word 'active' in this sense means rooms in building elevations from which there is direct and regular visual connection between the room and the street or parking court. Such visual connection can be expected from rooms such as kitchens and living rooms, but not from more private rooms, such as bedrooms and bathrooms.

It is preferable that footpaths are not placed to the back of properties. If they are essential to give access to the rear of properties they must be gated. The gates must be placed at the entrance to the footpath, as near to the front building line as possible, so that attempts to climb them will be in full view of the street. Where possible the street lighting scheme should be designed to ensure that the gates are well illuminated.

Perimeter security is one of the basic principles of crime prevention, being the first line of defence against unwanted trespassers, as such all rear boundary treatments must be 1.8m high, as a minimum requirement, and be solid and robust to prevent being breached. Close boarded fencing or walls would be deemed appropriate. If more surveillance is required or 1.8m would feel too closed in for smaller gardens then a 1.5m solid structure with a .3m trellis topping would be acceptable. It is accepted that on some occasions gradients of land or other permanent solid structures can have an impact on the need, choice and height of boundary treatments but these should be assessed on their own merits to ensure the boundary treatment is appropriate to any potential risk of trespass.

With the above in mind, the seven attributes of Crime Prevention Through Environmental Design (CPTED) are key to ensuring a safe and sustainable community, in addition to the layout the physical security is now a consideration.

'Access and movement: Places with well-defined and well used routes, with spaces and entrances that provide for convenient movement without compromising security

'Structure: Places that are structured so that different uses do not cause conflict

' Surveillance: Places where all publicly accessible spaces are overlooked, have a purpose and are managed to prevent creating problem areas which can attract the antisocial to gather, dumping and dog fouling

'Ownership: Places that promote a sense of ownership, respect, territorial responsibility and community

'Physical protection: Places that include necessary, well-designed security features as laid out in SBD Homes 2019

'Activity - Places where the level of human activity is appropriate to the location and creates a reduced risk of crime and a sense of safety at all times.

'Management and maintenance - Places that are designed with management and maintenance in mind, to discourage crime and ASB.

The security element within the Building Regulations, namely Approved Document Q (ADQ) creates security requirements in relation to all new dwellings, including those resulting from a change of use, for example commercial, warehouse or barns undergoing conversion into dwellings. It also applies to conservation areas.

All doors at the entrance to a building, including garage doors where there is a connecting door to the dwelling and all ground floor, basement and other easily accessible windows, including roof lights, must be shown to have been manufactured to a design that has been tested to an acceptable security standard i.e. PAS 24 (2016) or equivalent.

To assist the process in ensuring compliance with the requirements of ADQ, it is recommended that all doors and windows are sourced from a Secured by Design (SBD) member company. SBD requires that doors and windows are not only tested to meet PAS 24 (2016) standard by the product manufacturer, but independent third-party certification from a UKAS accredited independent third-party certification authority is also in place, thus reducing much time and effort in establishing the provenance of non SBD approved products

Secured by Design (SBD) is a crime prevention initiative managed by Police Crime Prevention Initiatives Ltd (PCPI) on behalf of the UK police services.  
Please do not hesitate to contact me if any clarification is sought or I can assist further.

### **NATURAL ENGLAND - 19th August 2020**

No comments

### **Royal Devon & Exeter NHS Foundation Trust - 9 October 2020**

This is a consultation response to the planning application ref: 20/01263/MFUL in relation to Erection of 22 dwellings with parking, landscaping and construction of new access

#### Introduction

Planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise. The creation and maintenance of healthy communities is an essential component of sustainability as articulated in the Government's National Planning Policy Framework, which is a significant material consideration. Development plans have to be in conformity with the NPPF and less weight should be given to policies that are not consistent with the NPPF. Consequently, local planning policies along with development management decisions also have to be formulated with a view to securing sustainable healthy communities. Access to health services is a fundamental part of sustainable healthy community.

As the attached document demonstrates, Royal Devon & Exeter NHS Foundation Trust (the Trust) is currently operating at full capacity in the provision of acute and planned healthcare.

It is further demonstrated that this development will create potentially long term impact on the Trust ability provide services as required.

The Trust's funding is based on previous year's activity it has delivered subject to satisfying the quality requirements set down in the NHS Standard Contract. Quality requirements are linked to the on-time delivery of care and intervention and are evidenced by best clinical practice to ensure optimal outcomes for patients.

The contract is agreed annually based on previous year's activity plus any pre-agreed additional activity for clinical services. The Trust is unable to take into consideration the Council's housing land supply, potential new developments and housing trajectories when the contracts are negotiated. Further, the following year's contract does not pay previous year's deficit retrospectively. This development creates an impact on the Trust's ability provide a services required due to the funding gap it creates. The contribution sought is to mitigate this direct impact.

CIL Regulation 122 and 123

The Trust considers that the request made is in accordance with Regulation 122:

"(2) A planning obligation may only constitute a reason for granting planning permission for the development if the obligation is—

- (a) necessary to make the development acceptable in planning terms;
- (b) directly related to the development; and
- (c) fairly and reasonably related in scale and kind to the development."

S 106

S106 of the Town and Country Planning Act 1990 (as amended) allows the Local Planning Authority to request a developer to contribute towards the impact it creates on the services. The contribution in the amount £29,055.00 sought will go towards the gap in the funding created by each potential patient from this development. The detailed explanation and calculation are provided within the attached document.

Without the requested contribution, the access to adequate health services is rendered more vulnerable thereby undermining the sustainability credentials of the proposed development due to conflict with NPPF and Local Development Plan policies as explained in the attached document.

#### **DCC - EDUCATION - 24th August 20**

Regarding the above application for 22 dwellings, Devon County Council has identified that the proposed increase of 18 family type dwellings will generate an additional 4.5 primary pupils and 2.7 secondary pupils which would have a direct impact on primary schools in Tiverton and Tiverton High.

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:

In accordance with the Education Infrastructure Plan 2016-2033, DCC will consider the adopted Local Plan allocations in addition to the forecast spare capacity and already approved but not yet implemented developments. We will share the forecast spare capacity of an area proportionately between all outstanding development sites allocated in the Local Plan. Based on this, a percentage is established, which will be requested for developments in the area.

The existing primary schools within Tiverton are forecast to have capacity for 94% of all pupils likely to be generated by the proposed development. An urban extension is proposed within Mid Devon's Local Plan with the inclusion of a new primary school to serve the development. This primary school will increase the towns primary capacity and therefore, Devon County Council will seek a contribution of 6% of the total number of pupils generated directly towards the delivery of this additional education infrastructure. The contribution sought is £5,242 (based on the DfE new build rate of £19,417 per pupil). This will relate directly to providing education facilities for those living in the development.

Tiverton High is forecast to have capacity for 62% of all pupils likely to be generated by the proposed development. Therefore, Devon County Council would seek a contribution based on the Tiverton secondary percentage of 38% of the total number of pupils generated directly towards additional secondary education infrastructure at Tiverton High School. The contribution sought towards secondary is £23,098 (based on the DfE extension rate of £22,513 per pupil). This would relate directly to providing secondary education facilities for those living in the development.

In addition, a contribution towards Early Years provision is needed to ensure delivery of provision for 2, 3 and 4 year olds. This is calculated as £4,500 (based on £250 per dwelling). This will be used to provide early years provision for pupils likely to be generated by the proposed development.

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.

All contributions would be subject to indexation using BCIS, it should be noted that education infrastructure contributions are based on March 2019 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.

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.

## **REPRESENTATIONS**

The application has been advertised by means of site notice, an article within the local newspaper and a direct consultation to the nearest neighbouring properties.

At the time of writing, the Council has received a signed petition of 58 signatures against the development and a further 7 objections. 1 representation has been received.

The objections raised concerns in regards to the following:

1. Harm to wildlife including bats;
2. Additional housing impact on local infrastructure;
3. Impact of the development in terms of noise, air quality and parking;
4. Inconsistencies with the plans submitted;
5. Concerns regarding lighting impact and street lighting locations;
6. Concerns over the proposed access and traffic flow
7. Impact on the agricultural land
8. Overdevelopment;
9. Flooding

10. Potential increase in anti-social behaviour

11. Lack of employment in surrounding area

The representation is from Tiverton Archaeological Group and neither supports nor objects to the application. It seeks to request that a geophysical survey is conducted and that there is insufficient evidence submitted with the application to assess the historic context.

## **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

### **Introduction**

The site relates to a plot of land which is around 0.7ha in size and is currently utilised as a paddock. The application seeks planning permission for a development of 22 residential units, of which 12 will be affordable homes delivered by Live West, (the applicant). The dwellings will be a mix of:

- 4 x 1 bed homes;
- 11 x 2 bed homes;
- 7 x 3 bed homes.

Four of these plots will be built to Part M4 (2) which means that they will be wheelchair accessible. The supporting information suggests that all homes are tenure blind and will be built in accordance with the overall space standards. There will be 7 social rent and 4 shared ownership. There are predominately two parking spaces per plot.

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

- **Principle of the development**
- **Impact of the development on the character and appearance of the area**
- **Impact of the development on neighbouring properties in regards to amenity**
- **Impact of the development on the local highway network**
- **Impact of the development on the historic environment**
- **Impact of the development on protected species and biodiversity**
- **Impact of the development in regards to flooding**
- **Other issues**

### **Principle of the development**

The application site falls outside the defined settlement limit of Tiverton, within the open countryside. Policy S14 deals with such locations and stipulates that only a limited number of proposals are considered acceptable in principle subject to their conformity with other policies and provisions in the plan. One such proposal that is considered acceptable under Policy S14 is that of affordable housing to meet local need.

The proposed development seeks to provide 22 new homes on the site, with 12 proposed for affordable housing and 10 for open market. This denotes the site as a 'Rural Exception Site' and as such, we must assess the development under the policies and provisions of Policy DM6.

Policy DM6 states that development of a site for predominately affordable or low cost housing that will meet local need will be permitted provided the following are met:

1. There is up-to-date evidence of housing need secured through a housing survey;
2. Each house will be occupied by at least one person with strong local connection to the parish;
3. The site adjoins a settlement and is in a suitable location which takes account of the potential for the visual impact and other relevant planning issues;
4. The type and scale of affordable or low cost housing is appropriate for the proven need;
5. The affordable or low cost housing will remain affordable for and available to local people in perpetuity, limited to no more than 80% of its market value upon resale.

Each of these points are addressed below:

There is up-to-date evidence of housing need secured through a housing survey

The applicant has provided an affordable housing statement which sets out the need identified within the local area. This has been reviewed by the Council's Housing manager who has agreed that there is a need for affordable homes within Tiverton.

Each house will be occupied by at least one person with strong local connection to the parish

This matter can be controlled via the provision of the S106 that will ensure that only individuals with a strong local connection will be able to apply for the affordable homes proposed.

The site adjoins a settlement and is in a suitable location which takes account of the potential for the visual impact and other relevant planning issues

The application site adjoins the Tiverton settlement boundary, and is adjacent to existing residential properties to the south and west of the site. In terms of the visual impact and other relevant planning issues, these are addressed accordingly below and are considered to be satisfied.

The type and scale of affordable or low cost housing is appropriate for the proven need

As noted above, the affordable housing statement submitted has identified a need for the development in Tiverton, and the Council's Housing Manager had agreed that such development is required. Furthermore, four of the units will be wheelchair accessible which

is required within the area and will help secure these much needed homes for those with this particular need.

The affordable or low cost housing will remain affordable for and available to local people in perpetuity, limited to no more than 80% of its market value upon resale

Again, this matter will be controlled via the s106 that will be drafted, agreed and signed by all parties.

The proposed development is therefore considered to meet the necessary criteria of Policy DM6 from this perspective. There is another point in which to assess and that would be the number of affordable units proposed against that of the market housing.

The proposed development suggests there will be provision of 12 affordable homes and 10 open market. The reason behind this, is down to viability concerns. As per National Planning Policy, the applicant has submitted a viability assessment in support of this proposal. The report seeks to demonstrate that the provision of all 22 units being proposed as affordable would not be viable, and therefore, the development would not be able to go ahead.

Accordingly, the Council has assessed the applicant's viability report by seeking out an independent viability assessor. The Council's independent advisor has provided the Council with a comprehensive report on the viability of the scheme based upon the applicant's submission and has concluded that the proposal as submitted for 12 affordable and 10 open market units is considered to be acceptable. It is agreed with the applicant's viability advisor through the detailed assessment, that to provide any more affordable homes on the site would not be viable. Whilst this would need to be written into the s106 for purposes of formality, it is understood through the applicant's agent, that the applicant 'Livewest' as a well know affordable housing provider, would still endeavour to construct all 22 units as affordable if they are able to do so. As this is a desire and a not a formal proposal however, the application must be assessed on its acceptability at delivering the 12 units as affordable, and the Council sees no reason why not to accept the recommendation of their independent viability assessor and to therefore consider the proposals as they stand to be acceptable.

### **Impact of the development on the character and appearance of the area**

The site lies in the Exe Valley Landscape Character Area, on the edge of the town Landscape character type LCT7 and the River Valley slope and combs LCT 3G. The landscape has a rich pattern of hedges, copse and woods, associated with the river valley, combs and farmland giving an overall well wooded appearance. The site does not fall within a Conservation Area, or near any listed buildings.

That said, it is still important to ensure the character of the development will not impact on that of the existing environment.

The proposal will see the development of what is currently a vacant site to the north and to the east of an existing housing development. The site is currently bound by hedgerow on all sides apart from that of the western boundary, which is bound by Tumbling Fields Lane, and which will provide the access to the site.

Whilst the development will clearly see the loss of greenfield land, the site is adjacent to existing housing and as such, its development will not cause a significant impact in terms of visual appearance when viewed against the backdrop of the existing housing. In terms of the proposed landscaping plan, this illustrates that existing hedgerows will be retained not only for visual amenity purposes, but also for purposes of biodiversity. Further landscaping is proposed within the design which will help soften the appearance of the development and where it has been possible, car parking has been provided to rear of properties. That said, and notwithstanding the plans currently accompanying the application, there will be a

condition recommended to provide full details of all the proposed boundary treatments and species that are proposed in terms of hedgerows and trees together with a maintenance plan to understand how such landscaping will be maintained.

In terms of the character and appearance of the proposed housing, this is not considered to be significantly different from that of the surrounding area. The housing within the nearby area are predominately brick built and are in terrace formation, with parking to the front. Whilst materials are to be agreed as part of the conditions, it is stated throughout the proposal that brick will again be used, and the proposed elevations show housing that is formed similarly to that of the surrounding area. Policy DM1 seeks development that is of a high quality design and requires proposals to have a clear understanding of the characteristics of the site and add a positive contribution to the surrounding area.

It is considered that with the recommended conditions, the proposed development would suitably accommodate this policy, and in terms of layout, has predominately active frontage with good sized plots which meet national space standards. Discussion has been undertaken with the applicant in terms of ensuring active frontage is provided as much as possible and it is considered that this has been achieved to a good standard.

In support of the application, a Landscape and Visual Impact Assessment has been submitted. This has assessed the impact of the development from a number of viewpoints and aspects and has also taken into account the historic site of Cranmore Castle to the south. The conclusion advises that the development (subject to necessary mitigation measures discussed in this report) can proceed with undue impact on the landscape.

The application (subject to conditions) is therefore considered to meet the necessary criteria of policy, and is not considered to have a significant impact on the landscape character or appearance of the area.

#### **Impact of the development on neighbouring properties in regards to amenity**

As noted above, the application is bound by existing residential properties to the south and to the west.

Nonetheless, these existing developments are divorced from the site by either a road (to the west) or by existing hedgerow. Furthermore, the development is primarily located away from these properties, with the nearest being that of proposed plot number 22, which falls to the rear of the property of number 3 Hamlin Close. The proposed plot is further screened by proposed trees and plantings, which as outlined above, would still be conditioned to ensure they are maintained accordingly.

There is therefore not considered to be any concerns in relation to existing amenity being impacted upon.

In terms of the dwellings proposed, each property is considered to have sufficient natural light through the use of well positioned windows and the majority of plots have good sized rear gardens. There is also a communal garden proposed towards the centre of the scheme which provides additional onsite open space.

In regards to any concerns of overlooking, the properties have been well laid out, with risk of this being limited. Appropriate boundary treatments to the rear of gardens will also ensure privacy of future residents is protected.

The proposed application is therefore considered to be acceptable on grounds of existing and future protection of neighbour amenity.

### **Impact of the development on the local highway network**

It is proposed for the development to be accessed to the west of the existing road network from Tumbling Fields Lane.

Concerns have been raised by local residents as to the impact of the development on the road network as and to whether it will be safe for the development to go ahead with the additional traffic that will arise as a result.

In accordance with policy, the application is supported by a Transport Assessment. This has assessed the proposed traffic implications of the development on the local road network as well as looked at the connectivity in terms of cycling and walking.

Devon County Highways have reviewed the supporting information and their full response is included at the beginning of this report. However, in summary, the County Highways team do not object to the application subject to a number of conditions being associated with any grant of planning permission.

In particular, they note that the existing access has the appropriate visibility requirements for the speeds in this area and see that there are footway links to the town centre which all have appropriate crossing points across the A396. The connection to the town centre amenities and bus stops are within the guidance for walking distances. The Highways team consider that the number of trips 22 dwellings could generate would not be a severe impact on the Highway Network.

In terms of parking, it is noted that 40 spaces are proposed for the 22 dwellings, which meets the terms of local planning policy.

The highways implications of the proposed development are therefore considered to be acceptable and do not give rise to concern.

### **Impact of the development on the historic environment**

Whilst the site does not fall within a conservation area, nor is it near any listed buildings, it is noted that it is approximately 250m to the north of Cranmore Castle, a large Iron Age Hillfort, which constitutes a Scheduled Monument.

Following concerns from Tiverton Archaeological Group and Devon County Historic Environment team, the applicant has commissioned and submitted an Archaeological Trench Evaluation, in order to understand whether there were any further assessments required at the site prior to permission being granted.

The investigation concluded that the evaluation provided no evidence of features, deposits or finds relating to the cloth industry and as such, no further works are considered necessary. The Devon County Historic Environment team have no objection to the proposed development.

### **Impact of the development on protected species and biodiversity**

The application is supported by an Ecological Appraisal which has been prepared by Richard Green Ecology.

The report outlines that there are likely to be several impacts on protected species as a result of the development, including bats, hazel dormice, slowworms and grass snakes. That said, the report also outlines ways of mitigating against these impacts, and all of which are achievable. Appropriate conditions have therefore been recommended to ensure such mitigation measures are put in place, and include matters such as limiting the lighting alongside the northern and eastern hedgerows, having slowworms relocated prior to the

development commencing and the placement of dormice nest boxes in retained hedges to the south and east to increase the carrying capacity of the hedges for dormice.

These measures will need to be strictly followed in order to ensure there is no harm to protected species and that biodiversity enhancement is achieved throughout the scheme.

### **Impact of the development in regards to flooding**

The majority of the site is located within Flood Zone 1, which is the lowest flood risk zone in accordance with the Environment Agency. However, the access to the site does fall within Flood Zone 3, and as such, a Flood Risk Assessment (FRA) has been undertaken and is submitted in support of the application.

The infiltration testing indicates that soakaways are not viable at the locations tested and that the groundwater levels are relatively shallow. Therefore, it is proposed to provide an attenuated discharge into the ditch located onsite. Due to existing site constraints which include steep topography, shallow groundwater levels and existing SWW's combined sewer located along the western site boundary, below ground attenuation has been proposed.

The below ground attenuation structure and swale has been designed to cater for a 1 in 100-year storm event with an allowance of 40% for climate change. The overall discharge rate from the site has been restricted to the QBAR greenfield runoff rate.

An earth bund is to be provided along the eastern site boundary as flood protection from the upstream catchment to ensure that exceedance flows are directed into a ditch and diverted around the proposed development.

Foul water is to connect into SWW's combined sewer, with sufficient spare capacity to accommodate the proposed development

Both the Environment Agency and Devon County Lead Local Flood Authority have reviewed the submitted FRA and do not have an objection to the scheme. There are conditions recommended which are included as part of the decision.

### **Other matters**

#### **Self build**

As noted above, the forward planning team advised that in accordance with planning policy S3, any scheme above 20 units would normally be required to provide 5% of that development as self-build plots. However, following further discussions with the forward planning team, it is agreed that in regards to a rural exception site, whereby the priority is to obtain as much affordable housing as possible, the requirement for the self-build unit should not be pursued as the development is already under financial constrain as demonstrated through the viability report.

#### **Open space**

In accordance with Policy S5 the development should provide an offsite contribution towards offsite open space. This has been calculated in accordance with Mid Devon's open space supplementary planning guidance. The figure is to be confirmed, but presently stands at a total of £11,014.20. It is understood this will go towards enhancements of public open space at West Exe Recreation Ground.

#### **NHS contribution**

As noted above, the NHS have requested that the application provide a s106 contribution of £29,055.00 sought towards the gap in the funding created by each potential patient from this development. It is not yet agreed whether this contribution request meets the tests as set out

under the CIL Regulation 122 and 123 legislation. This legislation dictates that planning obligations must:

- (a) necessary to make the development acceptable in planning terms;
- (b) directly related to the development; and 4
- (c) fairly and reasonably related in scale and kind to the development."

The Council is still considering the contribution request and an update will be provided at the committee meeting.

#### Public Footpath

A Public Right of Way borders the site to the west. The application was advertised accordingly with a site notice to this nature to advise members of the public. No diversion of the public footpath is proposed as part of this application.

#### Conclusion

The application proposes a development of up to 22 units of which 12 will be affordable units and 4 will be wheelchair accessible. It is understood there is a need for the development and as such, it generally meets the criteria of planning policy as set out by the National Planning Policy Framework, and the Mid Devon Local Plan 2013-2033. The development has limited impact on amenity and is considered to be of a design and appearance that is similar to that of the immediate area. Subject to a S106 and the following conditions, there is a recommendation to approve the application.

#### **S106 PROPOSED HEADS OF TERMS**

- a. 12 of the 22 homes to be Affordable**
- b. An education contribution of £32,840 (plus legal fees)**
- c. A public open space contribution of £11,014.20 (Financial figure to TBC) – project to be confirmed.**
- D. Potential NHS contribution – update at Committee to be given.**

#### **CONDITIONS**

1. The development hereby permitted shall begin before the expiry of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the application form and the approved plans/documents.
3. Prior to the commencement of development, a scheme and strategy for the translocation of reptiles at the site shall be submitted to an approved in writing by the Local Planning Authority. The translocation shall be carried out in accordance with the approved details and the area proposed for development should be isolated using temporary reptile fencing and artificial refugia placed around the site. Capture and translocation should continue until five consecutive inspections of artificial refugia under suitable weather conditions find no reptiles present. Translocation would need to be carried out between April and October when reptiles are active.

4. No materials shall be brought onto any part of the site or any development commenced, until the developer has erected tree protective fencing around all trees, hedges or shrubs to be retained on that part of the site, in accordance with a plan that shall previously have been submitted to and approved in writing by the Local Planning Authority. The fencing shall be in accordance with Figure 2 of BS 5837 2012. The developer shall maintain such fences to the satisfaction of the Local Planning Authority until all development has been completed. The level of the land within the fenced areas shall not be altered without the prior written consent of the Local Planning Authority. No materials shall be stored within the fenced area, nor shall trenches for service runs or any other excavations take place within the fenced area except by written permission of the Local Planning Authority.

5. Prior to installation of any external lighting, including street lighting and lighting on and around buildings and public spaces, a phase specific lighting strategy shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter proceed and be retained in accordance with the Strategy.

6. Within 3 months of commencement of development of the development hereby approved, a scheme for the provision of integrated bat and bird boxes shall have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter proceed and be retained in accordance with the agreed scheme.

7. Prior to the commencement of development, a Waste Audit Statement shall be submitted to and approved in writing by the Local Planning Authority.

The statement shall include:

- a) Methods to reduce the amount of waste material
- b) Methods to re-use the waste within the development
- c) Methods for the reprocessing and/or final disposal of excavated materials, including locations (which should hold appropriate planning permission, Environment Agency licences and exemptions) where such activities will take place
- d) Estimated quantities of excavated/demolition materials arising from the site
- e) Evidence that all alternative methods of waste disposal have been considered
- f) Evidence that the distance travelled when transporting waste material to its final disposal point has been kept to a minimum
- g) The amount of construction, demolition and excavation waste in tonnes.
- h) Further information on the type of material the waste will arise from during construction, demolition and excavation.
- i) Identify in more detail targets for the re-use, recycling and recovery for each waste type during construction, demolition and excavation of the development
- j) The predicted annual amount of waste (in tonnes) that will be generated once the development is occupied.
- k) Identify the main types of waste generated when development is occupied (If possible)
- l) Provide further detail of the waste disposal method including the name and location of the waste disposal site.

The development shall thereafter proceed in accordance with the approved Waste Audit Statement.

8. Prior to commencement of any part of the site the Planning Authority shall have received and approved a Construction Environmental Management Plan (CEMP). The plan will identify the steps and procedures that will be implemented to minimise the creation and impact of noise, vibration, dust and waste disposal resulting from the site preparation,

groundwork and construction phases of the development and manage Heavy/Large Goods Vehicle access to the site. It shall include details of the hours of operation and measures to be employed to prevent the egress of mud, water and other detritus onto the public and any non-adopted highways. The plan must include:

- (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;

Once approved the CEMP shall be adhered to at all times, unless otherwise first agreed in writing with the Local Planning Authority.

9. 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.

10. Prior to the occupation of the units hereby approved a Flood Warning and Evacuation Plan shall be submitted to and approved in writing by the Local Planning Authority.

11. No other part of the development hereby approved shall be commenced until the proposed access road and retaining structure details have been submitted to, and approved in writing by, the Local Planning Authority and will thereafter be retained for that purpose at all times.

12. 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.

13. 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 Flood Risk Assessment - Reference 19026 dated October 2020, and Drainage Strategy - Drawing Number 200 Revision C.

(b) Detailed proposals for the management of surface water and silt runoff from the site during construction of the development hereby permitted.

(c) Proposals for the adoption and maintenance of the permanent surface water drainage system.

(d) A detailed assessment of the condition and capacity of any existing land drainage system that will be affected by the proposals. The assessment should identify and commit to, any repair and/or improvement works to secure the proper function of the surface water drainage receptor.

(e) Evidence there is agreement in principle from the landowner to connect into their system. No building hereby permitted shall be occupied until the works have been approved and implemented in accordance with the details under (a) - (e) above.

The development will thereafter proceed in accordance with the submitted and approved details.

14. The development hereby approved shall be undertaken in strict accordance with the mitigation measures detailed within the approved Ecological Report by Richard Green dated December 2019.

15. The development shall not be occupied until refuse/bin storage facilities have been provided in accordance with the details hereby approved.

16. Notwithstanding the details shown on the approved plans, the development shall not be carried out otherwise than in strict accordance with drawings to be submitted to and approved in writing by the local planning authority, prior to the commencement of the development, showing all external architectural including details of window and door reveals; rainwater goods; eaves and soffits; mouldings.

17. The development shall not be carried out otherwise than in strict accordance with the details of the finished floor levels of the dwellings which shall have been submitted to and approved in writing by the local planning authority prior to the commencement of the development.

18. The development shall not commence until full details of hard and soft landscape works, including an implementation and management plan, have been submitted to and approved in writing by the local planning authority.

Details of soft landscape works shall include [retention of any existing trees and hedges; finished levels/contours; planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate. The hard landscape works shall include means of enclosure; boundary and surface treatments; vehicle and pedestrian/cyclist circulation; proposed and existing service lines. All works shall be carried out in accordance with the approved details and the implementation plan and thereafter maintained in accordance with the approved management plan.

19. Parking facilities shall be provided and thereafter permanently retained for the parking of vehicles in accordance with the approved plans prior to occupation of the dwellings hereby approved.

20. Notwithstanding the submitted details, 10 dormouse nest boxes will be installed in the retained south and east hedge, to increase the carrying capacity of the hedges for dormice prior to occupation of the dwellings hereby approved.

21. Prior to their use on any dwelling hereby approved, samples or details of the materials to be used on the external surfaces shall be submitted to and approved in writing by the Local Planning Authority. The work shall proceed in accordance with the approved materials.

## **REASONS FOR CONDITIONS**

1. In accordance with Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. In order to ensure compliance with the approved drawings.

3. For mitigation and compensation of impacts on protected and priority species, habitats and sites. Early approval is required as disturbance could occur from the outset.

4. To protect trees, hedges and shrubs in the interests of visual amenity. Early approval is required as disturbance could occur from the outset.

5. For protection of legally protected species including bats, dormice and otters and to ensure that lighting does not conflict with trees and other features.

6. In the interests of Biodiversity mitigation and enhancement

7. In the interest of waste management and minimisation. Early approval is required as impacts could occur from the outset.

8. To minimise the environmental impacts of the construction process for local residents and in the interests of amenity. Early approval is required as impacts could occur from the outset.

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

10. To ensure that residents have a safe evacuation plan and route during an event of flooding.
11. To ensure highway safety for the traffic attracted to the site. Required prior to commencement to ensure that submitted details are acceptable prior to their commencement.
12. In the interests of public health and the protection of the environment. Early approval is required as potential impact could occur from the outset.
13. The condition is required to ensure the proposed surface water drainage system will operate effectively and will not cause an increase in flood risk either on the site, adjacent land or downstream in line with SuDS for Devon Guidance (2017) and national policies, including National Planning Policy Framework and PPG. The conditions should be pre-commencement since it is essential that the proposed surface water drainage system is shown to be feasible before works begin to avoid redesign / unnecessary delays during construction when site layout is fixed.
14. For protection of legally protected species.
15. In the interests of local amenity
16. The submitted details are incomplete/unacceptable and to compliance with the approved details. Required prior to commencement to ensure that details are acceptable and approved at the outset.
17. In the interests of local amenity. Required prior to commencement to ensure that details are acceptable and approved at the outset.
18. To secure a landscape scheme that will complement the development in the interests of visual amenity. Required prior to commencement to ensure that details are acceptable and approved at the outset.
19. To ensure adequate parking facilities are provided to serve the development
20. In the interests of Biodiversity mitigation and enhancement
21. In the interest of visual amenity and to ensure the development will harmonise visually with the character and appearance of the site and its surroundings.

## **INFORMATIVES**

It is recommended that applicants, agents and developers take specialist consultant advice before complying with conditions related to land contamination.

The case officer has not carried out a site visit in the determination of this application due to Covid-19 travel and social distancing restrictions which are currently in place. The officer has instead considered the application using google maps and photographs and considers that to determine the application without a site visit would not prejudice any interested party.

The Human Rights Act 1998 came into force on 2nd October 2000. It requires all public authorities to act in a way which is compatible with the European Convention on Human

Rights. This report has been prepared in light of the Council's obligations under the Act with regard to decisions to be informed by the principles of fair balance and non-discrimination.

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

In accordance with Paragraph 38 of the National Planning Policy Framework, the Local Planning Authority has worked proactively and positively with the applicant. This has included further negotiations/discussions during the application process to address issues raised.

In accordance with the National Planning Policy Framework, the Local Planning Authority has also involved the community in the consideration of this application.

#### **REASON FOR APPROVAL OF PERMISSION/GRANT OF CONSENT**

The application proposes a development of up to 22 units of which 12 will be affordable units and 4 will be wheelchair accessible. It is understood there is a need for the development and as such, it generally meets the criteria of planning policy as set out by the National Planning Policy Framework, and the Mid Devon Local Plan 2013-2033. The development has limited impact on amenity and is considered to be of a design and appearance that is similar to that of the immediate area.