

## PLANNING COMMITTEE AGENDA - 8th September 2021

### Applications of a non-delegated nature

<u>Item No.</u>	Description
01.	<p>20/01409/MOUT - Outline hybrid application for the erection of industrial units within use Classes E(g), B2 and B8 on 8.74 hectares of land to include green infrastructure and Full permission for the erection of 4 industrial units (Plots 5, 9 and 10) (4327sqm) Classes E(g), B2 and B8 and creation of new vehicular access, parking, detention basin and landscaping at Land at NGR 303082 107667, Stoneyford, Devon.</p> <p><b>RECOMMENDATION</b> Grant permission subject to conditions and the signing of a S106 agreement to secure.</p>
02.	<p>21/00453/FULL - Change of use of agricultural land for siting of two off grid mobile cabins for holiday use at Land at NGR 292586 107415, Heronsfield House, Cadeleigh.</p> <p><b>RECOMMENDATION</b> Grant permission subject to conditions.</p>
03.	<p>21/00276/MFUL - Erection of 13 dwellings to include associated landscaping, public open space and infrastructure at Land at NGR 283084 102432 (Fanny's Lane), Sandford, Devon.</p> <p><b>RECOMMENDATION</b> Grant permission subject to conditions and the signing of a S106 agreement to secure.</p>
04.	<p>20/02128/FULL - Change of use of land for the provision of 6 permanent pitches for the use of gypsy and traveller family, formation of a new vehicular access, hardstanding and associated works at Pleasant Streams, Uffculme, Cullompton.</p> <p><b>RECOMMENDATION</b> Grant permission subject to conditions.</p>

Application No. 20/01409/MOUT

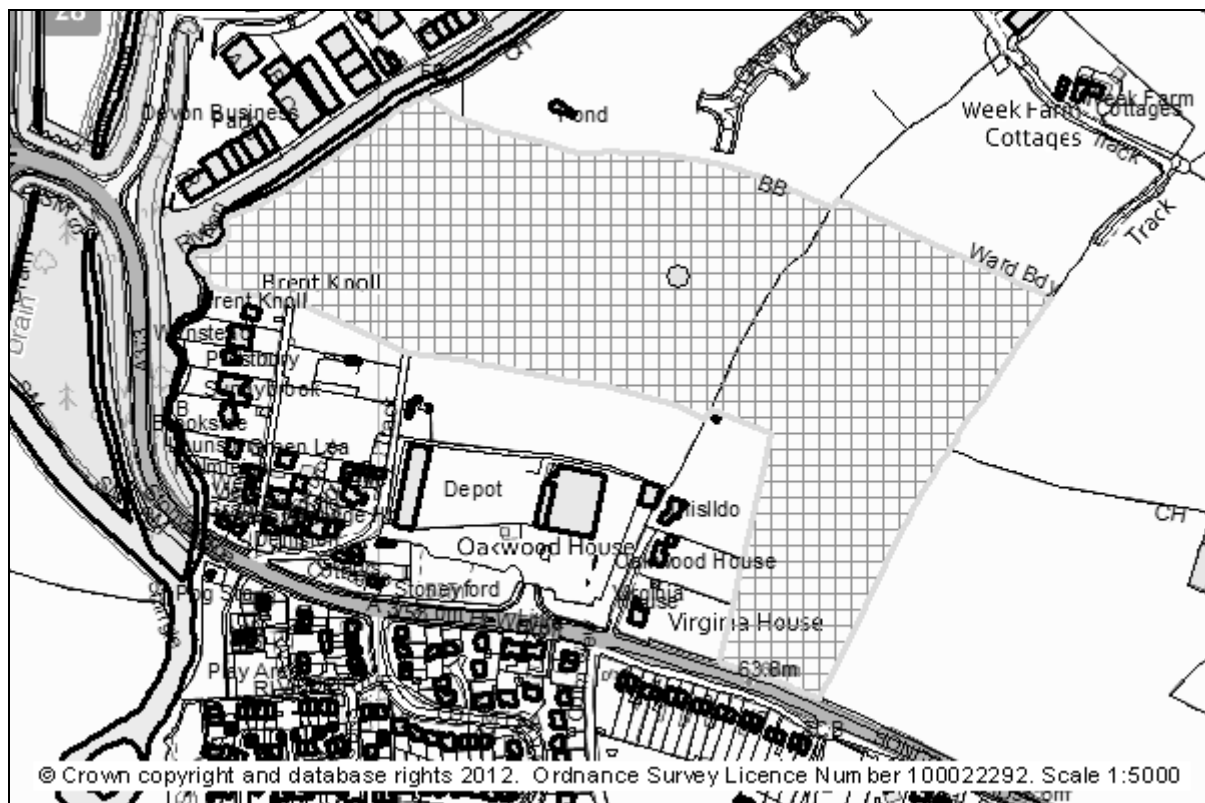
Grid Ref: 303082 : 107667

Applicant: Mr R Toghill, Goldmix Ltd

Location: Land at NGR 303082 107667  
Stoneyford  
Devon

Proposal: Outline hybrid application for the erection of industrial units within use Classes E(g), B2 and B8 on 8.74 hectares of land to include green infrastructure and Full permission for the erection of 4 industrial units (Plots 5, 9 and 10) (4327sqm) Classes E(g), B2 and B8 and creation of new vehicular access, parking, detention basin and landscaping

Date Valid: 15th September 2020



## **APPLICATION NO: 20/01409/MOUT**

### **RECOMMENDATION**

A. Grant permission subject to conditions and the signing of a S106 agreement to secure:

1. A 20 metre strip of land to the southern side of the development to be safeguarded for potential future highways improvements
2. Provision of new footpath and upgrading of existing public right of way
3. Travel plan
4. Provision, management and maintenance of green infrastructure/public open space
5. A review clause to reassess viability of the scheme with regard to a contribution towards the TCRR at a trigger point of the occupation of 4,250 square metres on the use of X amount of floorspace, based on actual achieved costs and transacted sales values being secured to determine how much contribution needs to be paid through s106 on the remaining plots.

### **PROPOSED DEVELOPMENT**

Hybrid application for the erection of industrial units within use classes E(g), B2 and B8 on 8.74 hectares of land to include green infrastructure and Full permission for the erection of 4 industrial units (Plots 5, 9 and 10) (4,327sqm) classes E(g), B2 and B8 and creation of new vehicular access and estate road, parking, detention basin and landscaping.

The use classes applied for are:

Class E Commercial buildings and service

Class E(g) Uses which can be carried out in a residential area without detriment to its amenity:

- E(g)(i) Offices to carry out any operational or administrative functions,
- E(g)(ii) Research and development of products or processes
- E(g)(iii) Industrial processes

Class B2 General industrial

Use for industrial process other than one falling within class E(g) (excluding incineration purposes, chemical treatment or landfill or hazardous waste)

B8 Storage or distribution

The proposal is on part of a 10.7 hectare site allocated by policy CU17 of the Mid Devon Local Plan 2013-2033 for employment and green infrastructure.

The application is in two parts:

1. Outline application for employment uses on 8 plots with layout, scale, appearance and landscaping as reserved matters, with access for determination, and
2. Full application for employment uses on Plots 5, 9 and 10 with a total floor space of 4,327 square metres (including first floor offices on Plot 5), with full details of layout, buildings, access and estate roads, attenuation ponds and green infrastructure.

Plot 5 covers an area of approximately 0.42 hectares and is located to the north of the proposed estate road which runs east to west. The site slopes from the south east to the north west at a gradient of approximately 1 in 18. The plot would have a two storey industrial and office unit with a gross external area of 1,610.5 square metres and a height to ridge of 8.4 metres. The remainder of the plot would be set out with parking, turning area and landscaping. This unit would provide flexible uses within Use Classes E(g), B2 and B8.

Plot 9 covers an area of approximately 0.5 hectares and is located to the south east of the site. The site slopes from the northeast to the southwest at a gradient of approximately 1 in 25. The plot would have a single storey industrial unit, with a gross external area of 1,698 square metres. The building would have a curved roof with a maximum height of 7.8 metres. The unit will be capable of future sub-division into smaller units and have the potential to install a part first floor mezzanine across the front of the unit. The remainder of the plot would be set out with parking, turning area and landscaping. This unit would provide flexible uses within Use Classes E(g), B2 and B8.

Plot 10 covers an area of approximately 0.35 hectares and is located to the south west of the site. The site slopes from the north west to the south east at a gradient of approximately 1 in 17. The plot would have two single storey industrial unit blocks, with a total gross external area of 1,045 square metres. The building would have a mono-pitch roof with a maximum height of 7.7 metres. The unit will be capable of future sub-division into smaller units and have the potential to install a part first floor mezzanine across the front of the unit. The remainder of the plot would be set out with parking, turning area and landscaping. This unit would provide flexible uses within Use Classes E(g) and B8.

Materials for all the buildings would be silver cladding over a brick plinth, and grey roof cladding with roof lights and solar panels, aluminium windows and roller shutter doors.

## **APPLICANT'S SUPPORTING INFORMATION**

Design and access statement  
Planning statement  
Transport statement  
Archaeological report  
Ecology report  
Waste audit statement  
Flood risk assessment  
Noise assessment  
Viability appraisal

## **RELEVANT PLANNING HISTORY**

None

## **DEVELOPMENT PLAN POLICIES**

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

CU17 – Week Farm  
CU20 – Cullompton Infrastructure  
S1 – Sustainable development priorities  
S2 – Amount and distribution of development  
S6 - Employment  
S8 - Infrastructure

S9 - Environment  
S11 - Cullompton  
DM1 – High quality design  
DM3 – Transport and air quality  
DM4 - Pollution  
DM5 - Parking  
DM25 – Development affecting heritage assets  
DM26 – Green infrastructure in major development

Devon County Council Waste Plan

National Planning Policy Framework

## **CONSULTATIONS**

### **CULLOMPTON TOWN COUNCIL - 5 November 2020**

RESOLVED that the Town Council has no objection to the application with the caveat that the road infrastructure is improved before any works start on the application site, this is with particular reference to the traffic lights at Junction 28 of the M5, the access and egress of Kingsmill Road and Honiton Road coming down from Mole Valley Farmers.

### **ENVIRONMENT AGENCY – 27 November 2020**

Thank you for your email received on 12 November 2020 requesting further advice to allow the SUDS features to be delivered ahead of plots 1 and 2.

We confirm that we have no objection to the proposal provided that conditions are applied to any permission granted requiring the developer to take account of the latest flood risk modelling when the detailed design and layout of the western plots and position of the SUDS ponds/swales (this can be achieved in 2 separate conditions); ensure that there is no land raising within the floodplain; and prepare a Construction Environment Management Plan (CEMP).

Before determining the application your Authority will need to be content that the flood risk Sequential Test has been satisfied in accordance with the NPPF if you have not done so already.

We have provided further advice on flood risk below. We also refer you to our previous advice on pollution prevention provided within our letter dated 28 October 2020.

#### **Advice – Flood Risk**

We have considered the matters raised in your email of 12 November 2020 and consider that these can be resolved by having 2 separate conditions:

1. For the Outline part of the application – to agree the detailed design of plots 1 and 2 as part of the reserved matters application to demonstrate that all development is outside of the flood risk area.
2. For the Full part of the application – to agree the detailed design of the SUDS features before the commencement of development to ensure that they are outside of the flood risk area.

We have reviewed the flood plans in the Flood Risk Assessment (FRA, rev E, submitted 16 Nov), which show the flood outlines (please see: page 6 Figure 2.3 and Appendix E – Preliminary Drainage Layout plan). We consider that these show the new modelled flood outline correctly. The new outline represents a change to the flood zone along the edge of the site. The drainage

condition will need to ensure that the detailed design of the attenuation ponds takes account of the new flood levels. The LLFA may also want to agree the details of the surface water drainage system.

With regard to the outline application, the detailed design at the reserved matters stage will also need to take account of the revised fluvial flood level and it will need to be demonstrated that all development will be located outside of the flood risk area.

We also consider that it would be sensible to include a condition which restricts land raising in the floodplain as shown in the plans within the FRA (or any amended flood outline when the condition is discharged – because they may be tweaked).

#### **ENVIRONMENT AGENCY – 4 November 2020**

We have no objection to the proposal provided that conditions are applied to any permission granted requiring the developer to 1) take account of the latest flood risk modelling when the detailed design and layout of the western plots and position of the SUDS ponds/swales; and 2) prepare a Construction Environment Management Plan (CEMP).

Before determining the application your Authority will need to be content that the flood risk Sequential Test has been satisfied in accordance with the NPPF if you have not done so already.

The suggested wording for these conditions is set out below.

#### **Condition - Detailed design of western side of development**

No development shall commence on plots 1 and 2 and the SUDS features at the western edge of the site until the detailed design and layout of this part of the development has been submitted to and agreed in writing by the local planning authority. The detailed design and layout of plots 1 and 2 and the SUDS features at the western edge of the site shall be informed by the latest flood risk modelling, and information should be submitted to demonstrate that their siting and design will not result in an increase in flood risk on or off the site. The development should be fully implemented and subsequently maintained in accordance with the agreed details.

Reason: To avoid increasing flood risk to third parties

#### **Condition - Construction Environment Management Plan (CEMP)**

No development shall take place until a detailed Construction Environment Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. This Plan shall include details of all permits, contingency plans and mitigation measures that shall be put in place to control the risk of pollution to air, soil and controlled waters, protect biodiversity and avoid, minimise and manage the productions of wastes with particular attention being paid to the constraints and risks of the site. Thereafter the development shall be carried out in accordance with the approved details and any subsequent amendments shall be agreed in writing with the Local Planning Authority.

Reason: To ensure that adequate measures are put in place to avoid or manage the risk of pollution or waste production during the course of the development works.

#### **Advice - Flood Risk**

Plots 5, 9 and 10, on which full planning permission is sought, are all located within Flood Zone 1 (low probability of flooding). However, the western part of the site (subject to outline approval) is located within Flood Zones 2 and 3 (medium and high probability of flooding respectively). A sequential approach to layout at the reserved matters stage will therefore be necessary to ensure that development is avoided in the flood risk area. This will need to be informed by the latest flood risk modelling.

Any development which your Authority considers is necessary within the flood zone must be designed appropriately to ensure that there will be no increase in flood risk to the development or to third parties. Of particular concern at this stage are plots 1 and 2 and the SUDS features at the western edge of the site. We consider that the above condition will ensure that the siting and design of these are appropriate before development takes place.

#### Informative - Flood Risk Activity Permit

This proposal is located adjacent to a watercourse which is designated a main river at this location. Under the terms of the Environmental Permitting (England and Wales) Regulations 2010 a permit is required for any proposed works or structures, in, under, over or within eight metres of the top of the bank of the river. Further details are available on the GOV.UK website:

<https://www.gov.uk/guidance/flood-risk-activities-environmental-permits>. A permit is separate to and in addition to any planning permission granted.

#### Advice - Construction Environment Management Plan

We recommend that a Construction Environment Management Plan (CEMP) is produced to pull together and manage the pollution control and waste management requirements during the construction phase. A CEMP is best prepared with the main Contractor.

Run off from exposed ground / soils can pose a significant risk of pollution to nearby watercourses, particularly through soil/sediment run off and the CEMP should address how such run-off can be minimised, controlled and treated (if necessary). Please ensure that this is considered well in advance as some treatment methods can require an Environmental Permit to be obtained.

To assist in preparing the CEMP we refer the applicant to the advice contained within our Pollution Prevention Guidelines (PPGs), in particular PPG5 - Works and maintenance in or near water and PPG6 - Working at construction and demolition sites. These can be viewed via the following link: <https://www.gov.uk/government/collections/pollution-prevention-guidance-ppg>.

We also advise that the use or disposal of any waste should comply with the relevant waste guidance and regulations.

#### **HISTORIC ENVIRONMENT TEAM – 21 October 2020**

The proposed development lies in an area of archaeological potential to the east of the Romano-British and medieval settlement at Cullompton and in an area where evidence of the Roman road leading eastward from the Roman fort at St Andrew's Hill might be present. While some archaeological monitoring of geotechnical pits has been undertaken across the site, this represents a very small sample of the site upon which to understand the presence of any archaeological features here.

As such, groundworks for the construction of the proposed development have the potential to expose and destroy archaeological and artefactual deposits associated with the known Romano-British and later heritage assets in the surrounding landscape. The impact of development upon the archaeological resource here should be mitigated by a programme of archaeological work that should investigate, record and analyse the archaeological evidence that will otherwise be destroyed by the proposed development.

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

If a Written Scheme of Investigation is not submitted prior to determination the Historic Environment Team would advise, for the above reasons and in accordance with paragraph 199 of the National Planning Policy Framework (2019) and the supporting text in paragraph 5.3 of the Mid Devon Local Plan Part 3: Development Management Policy DM27 (2013), that any consent your Authority may be minded to issue should carry the condition as worded below, based on model Condition 55 as set out in Appendix A of Circular 11/95, whereby:

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

Reason: To ensure, in accordance with Policy DM27 and paragraph 199 of the National Planning Policy Framework (2019), that an appropriate record is made of archaeological evidence that may be affected by the development'

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

I would envisage a suitable programme of work as taking the form of a staged programme of archaeological works, commencing with the excavation of a series of evaluative trenches to determine the presence and significance of any heritage assets with archaeological interest that will be affected by the development. Based on the results of this initial stage of works the requirement and scope of any further archaeological mitigation can be determined and implemented either in advance of or during construction works. This archaeological mitigation work may take the form of full area excavation in advance of groundworks or the monitoring and recording of groundworks associated with the construction of the proposed development to allow for the identification, investigation and recording of any exposed archaeological or artefactual deposits. The results of the fieldwork and any post-excavation analysis undertaken would need to be presented in an appropriately detailed and illustrated report, and the finds and archive deposited in accordance with relevant national and local guidelines.

#### **DCC - WASTE MANAGEMENT TEAM - 7 October 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 that has been submitted has appropriately identified targets for the reuse, recycling and recovery for each waste type as well as identifying measures taken to avoid waste occurring. However the document is lacking in detail in its current form. As such, the following points need to be addressed in the statement:

1. The amount of construction, demolition and excavation waste in tonnes.
2. The type of material the waste will arise from during construction, demolition and excavation
3. The method for auditing the waste produce including a monitoring scheme and corrective measures if failure to meet targets occurs.
4. The predicted annual amount of waste (in tonnes) that will be generated once the development is occupied.
5. Provide 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>.

#### **FLOOD and COASTAL RISK MANAGEMENT TEAM – 15 January 2021**

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:

##### **Full Areas**

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 and Drainage Strategy.
- (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 plan indicating how exceedance flows will be safely managed at the site.
- (e) Model outputs to demonstrate that the proposed flow control will restrict flows to the relevant greenfield runoff rates for the positively drained area. These outputs must also demonstrate that the flows can be safely managed within the basin with a suitable freeboard of 300mm. 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.

##### **Outline Areas**

Prior to or as part of the Reserved Matters, the following information shall be submitted to and approved in writing by the Local Planning Authority:

- (a) A detailed drainage design based upon the approved Flood Risk Assessment.
- (b) Detailed proposals for the management of surface water and silt run-off 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 plan indicating how exceedance flows will be safely managed at the site.
- (e) Model outputs to demonstrate that the proposed flow control will restrict flows to the relevant greenfield runoff rates for the positively drained area. These outputs must also demonstrate that the flows can be safely managed within the basin with a suitable freeboard of 300mm. 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/01409; dated 12th October 2020), the applicant has provided additional information in relation to the surface water drainage aspects of the above planning application for which I am grateful. The applicant should submit the following information to the Local Planning Authority for their review:

1. Flood Risk Assessment (Rev. E; dated 13th November 2020)
2. Preliminary Drainage Layout (drawing No. PDL-101; Rev. E; dated 16th December 2020)

The applicant has proposed to manage surface water within each plot and to manage long term storage and flows from the main access road within a detention basin. The applicant has noted that as the site is developed, the impermeable areas will increase, therefore the runoff rate will increase relevant to the positively drained area. The applicant has confirmed that the flow control for the basin will need to be assessed as the plots come forward. The parts of this site applied for in Full will need to assess the flow control when applying to discharge the above condition. The parts of this site applied for in Outline will need to assess the flow control at the Reserved Matters stage.

Each plot should assess groundwater levels to ensure that groundwater will not affect the proposed surface water drainage system during its construction as well as during the operational phase. This includes for the proposed basin and swale.

Each plot will need to assess features which will form a SuDS Management Train and provide treatment of surface water. Each plot should assess above-ground features for surface water storage.

#### **FLOOD AND COASTAL RISK MANAGEMENT TEAM – 16 October 2020**

Although we have no in-principle objection to the above planning application at this stage, the applicant must submit additional information, as outlined below, in order to demonstrate that all aspects of the proposed surface water drainage management system have been considered.

The applicant has proposed to attenuate surface water within underground and above-ground features before discharging surface water to the Kenn Stream. The applicant has proposed to construct a detention basin to manage the long-term storage volume for the entire site as well as to treat surface water. This basin will also provide storage for surface water from the proposed estate road.

The MicroDrainage model outputs, submitted within the Flood Risk Assessment (Rev. D; dated 19th August 2019), demonstrate the highway draining to the basin. However, the model outputs also have upstream structures flowing to the basin. In addition to the model outputs already submitted, the applicant should submit model outputs for the highway drainage only to demonstrate the required surface water volumes for the 1 in 2 year, 1 in 30 year and 1 in 100 year (+40% allowance for climate change) return periods.

It is understood that parts of this site are applying for full planning permission and other parts are applying for outline planning permission. The applicant should provide details to clarify the phasing of development. The detention basin will provide long-term storage for the entire site, however, if only the estate road is constructed initially (before any 'plots' are constructed) then the basin may be discharging at a rate higher than the greenfield runoff rate for the estate road.

Although some of the plots are applied for in Outline, the applicant must submit a plan depicting surface water drainage for each plot. This is to demonstrate that there is enough space within the site to manage surface water appropriately.

Further details for the SuDS Management Train must be submitted. The applicant should assess the suitability of further features, such as permeable paving, green roofs, living walls, rain gardens and rainwater harvesting.

The applicant should assume that the permeable areas will drain into the surface water drainage system when assessing long-term storage for this site. The topography of the site suggests that landscaped areas may flow onto highways and/or directly into the proposed detention basin. The applicant must submit cross-sections of the proposed detention basin and swale. The applicant must clarify the landscaping proposals for the detention basin and swale.

The applicant has outlined who may be responsible for maintaining the surface water drainage system. However, the applicant must also confirm how the surface water drainage system will be maintained.

For plots 5, 9 and 10, the applicant must provide further exceedance route arrows on the Preliminary Drainage Layout (PDL-101; Rev. C; dated 19th August 2020). This is to demonstrate how exceedance routes will be safely managed within these plots (which are applied for in Full).

The applicant should provide written confirmation that the Environment Agency are content with a swale being constructed within Flood Zone 3.

#### **NATURAL ENGLAND - 5 October 2020**

No comments. Natural England has not assessed this application for impacts on protected species. Natural England has published Standing Advice which you can use to assess impacts on protected species or you may wish to consult your own ecology services for advice.

#### **PUBLIC HEALTH – 28 January 2021**

##### **Lighting**

There is considerable potential for site lighting to affect nearby residents and I cannot see a lighting report and proposal within the documents online. It is essential that this is designed to ensure no upwards or sideways light overspill, and preferably all light units should be sited at low height with shields or reflectors designed to reduce white light glare. A condition can be included in any approval requiring a scheme with report and drawings to be submitted prior to occupation of the first units in order to ensure that residents are not affected by intrusive light.

A noise report has been submitted, prepared by Inacoustic dated December 2020. This report takes into account existing cumulative noise sources and suggests daytime and night time cumulative noise limits. Whilst these are useful the report does not consider or recommend how noise reduction and mitigation can be addressed by design of the development area as a whole, or requirements for noise control on plant and equipment as buildings come forward at reserved matters stage and how noise should be controlled over the site as a whole once fully operational.

There are residences immediately adjacent to some site boundaries, particularly to the south, and it is possible that housing will encroach on the site from the north in the future. There is potential for all of these properties to be affected by unacceptable noise levels unless controls are built in from the outset. The best way to ensure that the potential for noise is considered at the outset, and in a way that does not unreasonably interfere with the operation of the various businesses, is to

require that a Noise Management Plan is prepared and submitted before the first occupation of any building.

Items for inclusion in the plan would include:

1. Design and layout of the site to ensure no active or working areas back on to residences.
2. Design and layout of the site to minimise the need for reversing vehicles, particularly delivery vehicles.
3. A commitment to ensure no building openings (other than fire escapes) are included on any façade facing residences.
4. A commitment to ensure that no potentially noisy air conditioning units, extract systems or flues are located on the facades facing residences.
5. The consideration of site boundary treatments. For example acoustic fencing may be required in parallel with existing boundary treatments with residences where acoustic protection is not provided by the building itself.
6. Where possible goods in and out areas to be located remote from residences.
7. No waste storage or recycling areas to be located adjacent to residential boundaries.
8. Additional consideration for buildings which may be used for all night working, such as distribution centres.
9. A commitment to comply with the cumulative 1 hour noise limits for day and night (41 dB and 36dB respectively) set out in the Inacoustic report Dec 2020.
10. A prohibition on high frequency audible reversing alarms on any vehicle based on the commercial area (there are alternative quiet safe reversing techniques available).

We would also recommend the removal of any permitted development rights on any of the buildings in respect of the installation of potentially noisy plant or equipment.

Finally there is considerable potential for residents to be affected by noise and dust during the construction process so we recommend that the standard CEMP condition is included in any approval.

#### **PUBLIC HEALTH - 6 October 2020**

Contaminated Land:

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. (1.12.20)

Air Quality: Prior to the commencement of development the developer must provide an Air Quality Impact Assessment. The Air Quality Impact Assessment must be undertaken by a suitably qualified professional(s). The Air Quality Impact Assessment must consider the impact of the development on local air quality and relevant sensitive receptors, the impact of existing local air quality on the development and relevant sensitive receptors and any necessary mitigation. Additionally, the cumulative impact of all locally committed developments (small scale and large scale major sites i.e. >10 properties) on existing local air quality must be considered to assess if further mitigation measures, other than those recommended as part of the above, are required.

The details of all required mitigation measures identified as part of the above must be agreed with the Local Planning Authority. All required mitigation measures must be carried out in accordance

with the details agreed by the Local Planning Authority prior to the operation/occupation of the development.

Reason: To assess the potential health risks to relevant sensitive receptors from local air quality and identify required mitigation measures. (1.12.20)

Environmental Permitting: No objection to this proposal (22.09.20)

Drainage: No comments (1.12.20)

Noise & other nuisances:

These industrial units are being proposed near to an urban area and therefore, the developer needs to demonstrate that all mitigation methods have been considered to ensure that noise levels at the closes receptors do not exceed unsatisfactory noise levels.

To help achieve this, a BS 4142:2014+A1:2019 noise assessment should be undertaken. A BS 4142:2014+A1:2019 noise assessment should give accurate, clear and relevant information about the existing daytime noise environment, and the impact of the industrial noise.

The purpose of this noise assessment is to determine whether or not the current occupants are likely to be adversely affected by noise. This will help inform the decision making process for the proposed development. If the noise impact assessment highlights noise as an issue, mitigation will need to be considered and the mitigation will need to be assessed to determine if it is at an appropriate level to protect against noise ingress from the local environment. (1.12.20)

Licensing: No comments (24.09.20)

Food Hygiene: No comments (22.09.20)

Private Water Supplies:

If a private supply is to be used by more than one property or has a commercial function, The Private Water Supply (England) Regulations 2016 as amended will apply. A risk assessment and sampling regime will be necessary. The supply must not be used until the Local Authority (Mid Devon District Council) is satisfied that the supply does not constitute a potential danger to human health, including single domestic use. You must also register with the Local Authority (Mid Devon District Council) any private water supply. Failure to do so may result in a Section 85 Notice, with which failure to comply is an offence. Please contact Public Health at Mid Devon District Council on completion of proposal. If mains water is to be used, would have no comment. (22.09.20)

Health and Safety: No comments (22.09.20)

#### **DEVON, CORNWALL & DORSET POLICE - 25 September 2020**

Police have no objections in principle to either the outline or full proposals. Please note the following information, initial advice and recommendations from a designing out crime, fear of crime, antisocial behaviour (ASB) and conflict perspective:-

Plots 5, 9 and 10

Commercial units can be vulnerable to burglary, theft and unwanted trespass, therefore it is recommended that the units are constructed to achieve Secured by Design (SBD) compliance. Secured by Design (SBD) is a crime prevention initiative managed by Police Crime Prevention Initiatives Ltd (PCPI) on behalf of the UK police services.

SBD aims to reduce crime, the fear of crime and opportunities for antisocial behaviour and conflict within developments by applying the attributes of Environmental Design, as follows, in conjunction with appropriate physical security measures.

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 the creation of problem areas which can attract criminal activity and the antisocial to gather.  
Ownership: Places that promote a sense of ownership, respect and territorial responsibility  
Physical protection: Places that include necessary, well-designed security features.  
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.

In general, the proposed buildings appear to follow a simple design where recesses and concealed areas are minimised which is a good design feature in increasing surveillance opportunities. However the path/gap between units 1E & 2A does give cause for concern and I recommend this be fenced/gated to prevent casual access but allow for maintenance as required. This area should be lit and ideally included in any CCTV system.  
It is recommended an appropriate monitored CCTV and alarm system is installed as part of the overall security package for each unit.

Lighting for the site must be compatible with the CCTV system.

Care needs to be taken with regard to planting/landscaping, where applicable, so as to not create hiding places, areas of concealment for vehicle interference or impede surveillance opportunities.

There should be no access to areas that are not overlooked to reduce the opportunity for anti-social and criminal activity. There should be no open access to ground floor windows or doors to the sides or rear of the buildings. To deter and prevent criminal, opportunist and casual intrusion, the plots should be securely enclosed by means of appropriate security fencing and gates.

Consideration should be given to installation of a suitable barrier or gate which could be secured when the units are closed and prevent potential misuse of the car park particularly by groups in their cars. This is not altogether uncommon problem for industrial parks elsewhere in North Devon and can arise at any time. Securing the car park out of hours reduces likely incidents of crime, disorder and anti-social behaviour.

#### **DCC RIGHTS OF WAY OFFICER – 5 October 2020**

The proposal as submitted would not have a direct effect on public rights of way but would lead to an increased use. The proposal also has the potential to contribute to access improvements in the locality.

The existing public footpath number 3 Cullompton runs from Stonyford to Kingsmill Industrial Estate. There is potential for an additional riverside (Kenn) link path and ramp access improvements to the bridge. If farm stock are not kept in adjoining fields the PROW team would request that the proposed kissing gate be left as a gap. If stock are to be present then a suitable 2 way disability access gate should be used.

The Public Rights of Way Team has no objection to the proposal but recommends that the proposal provides the opportunity to enhance the provision and use of the public rights of way network in the area. The applicant should be aware that public footpath no 3 crosses the application site. Should planning permission be granted the applicant must ensure that the path is kept open and available for the public to use during site preparation and construction. If a

temporary closure is required, the applicant would need to apply to the County Council for a Temporary Traffic Regulation Order.

Please note that the grant of planning permission does not grant the right to close, alter or build over a right of way in any way, even temporarily, this includes, for example, a change in the surface, width or location. Nothing should be done to divert or stop up a public right of way without following the due legal process, including confirmation of any permanent diversion or stopping-up order and the provision of any new path. In order to avoid delays this should be considered at an early opportunity.

If permission is granted, please include as footnotes in the decision notice:

1. The alignment, width, and condition of public rights of way providing for their safe and convenient use shall remain unaffected by the development unless otherwise agreed in writing by the Public Rights of Way Team.
2. Nothing in this decision notice shall be taken as granting consent for alterations to public rights of way without the due legal process being followed.

#### **HIGHWAY AUTHORITY – 18 November 2020**

I have been involved in the application at pre-application stage and made comment on the fact that no footway had been provided on the north side of the road to connect in with existing footway at Mole Valley and they had suggested that pedestrians use the footway on the southern side which is not public highway and a private lane and this would not be acceptable.

The applicant looked into providing the footway along the northern side of the A373 but unfortunately the only way a 2 metre wide footway could be delivered would be to reduce the width of the A373 which also would not be acceptable as this could create highway safety issues. Therefore a proposal has been put forward to connect a footway to the PROW which runs from the edge of the Mole Valley and continues into the Kingsmill Industrial Estate. I would suggest that this route be secured through a condition and also this route to be upgraded to a more suitable surface for pedestrians to use.

I have also been questioned regards the application has not provided a right hand turn lane in to the proposed industrial estate, the reason this has not been provided is the estimated trip rates shown in the Transport Assessment shows that this junction does not meet the guidance numbers and requirements for a right hand turn lane.

The T junction proposed is within the 30 mph speed limit and the visibility splays required for this speed is 2.4 metres x 43 metres in both directions. A speed survey was carried out and the 85 percentile speeds showed this to be higher and therefore has adjusted the visibility to 2.4 metres x 70 metres in both directions.

#### **HIGHWAY AUTHORITY – 20 October 2020**

The site is accessed off the A373 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 3 recorded accidents. One slight accident in 2016 at the junction of Kingsmill Road and the A373 involving 2 vehicles and no casualties. One Fatal accident in 2018, 41 metres from the junction with an unclassified road involving 1 vehicle. One Serious Accident further along the A373 involving 1 vehicle and 1 casualty. None of these accident were in the vicinity of the proposed access in this proposal.

The Applicant has submitted an Access Plan within the Transport Assessment which shows a visibility splay of 2.4 x 70 metres in both directions which is over the requirement for a 30 mph road therefore acceptable for this area and would provide a safe and suitable access.

With the number of trips which has been assessed through the Trics Database which is a National acceptable Database for this size of proposed development could create shows the T Junction layout would be suitable and no further mitigation would be required.

Although the applicant has not put forward a foot way link from this access to the existing footway near Mole Avon as the land is not available to applicant to provide this link, the Applicant has provided a footway link through the public right of way which would require a diversion of this Public Right of Way which in principle has been agreed.

The Transport Assessment which has been submitted is a robust assessment of the existing conditions and the impact this development would have on the highway network and the assessment shows this would not be a severe impact on the highway network.

The Assessment also provides a Travel Plan to encourage other modes of Transport to each of the Units.

Drawing Number PHL -102 Rev C shows an area highlighted in green which is a strip of land 20 metres wide to be safeguarded for potential future Devon County Council Highway Improvements, this land will be required to be secured through a Section 106 Agreement.

The applicant will need to enter into a legal agreement with the Highway Authority for mitigation for capacity improvements to junction 28, and delivery of the Cullompton Relief Road.

Therefore the County Highway Authority has no objections to this application.

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 inclusive; 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;
  - (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; and
- (n) photographic evidence of the condition of adjacent public highway prior to commencement of any work.

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

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

## **REPRESENTATIONS**

As at the time of writing this report, 12 representations had been received, including representations from two Cullompton Ward Members. The comments are in-depth and have been fully considered however the main points raised are summarised below.

Two representations from Ward Members:

1. I support the concerns raised by the Town Council
2. If I am reading the plans correctly it appears that the site indicated on the site location plan includes an area outside the CU17 allocation which is allocated as Green Infrastructure in the current Local Plan. If so, please condition to ensure that development does not encroach onto this GI area. Please also consider conditions to protect the amenity of nearby residents from potential impacts resulting from this development, particularly noise disturbance, smells etc.

One letter of support received, summarised as follows:

1. The development would provide local employment.

9 objections received (where multiple correspondence has been received from one member of the public, this is counted here as one objection), summarised as follows:

### **Need**

1. There is no need for further industrial capacity at this time. There is capacity on nearby employment sites and within the wider area and demand is forecast to be low in the near future, including a rise in unemployment due to the Covid-19 pandemic.
2. Kingsmill is the industrial site for Cullompton and there are empty units and land with planning permission that has not been built out.
3. Industries currently cannot recruit sufficient staff to fill their vacancies.

### **Impacts on residents**

4. Noise, vibration and light pollution during construction and operation will affect nearby residents.
5. Security issues for neighbouring residents will increase.
6. Tree planting to screen existing houses should be provided.
7. The application is proposing to close an existing public right of way.
8. There are likely to be contaminants washed away with the surface water without passing through an interceptor and enter ground water and nearby water supplies.
9. It is likely that hazardous materials would be stored on the site.
10. Mole Valley has restrictions on the levels of noise, operation of power tools, lighting and advertising which should also apply to this development, and which should also include smells.

11. Residents are already affected by noise, smells and commercial vehicles on the Kingsmill site. This site is closer and will increase nuisances.
12. In considering air quality, the increase in heavy goods vehicles must be taken into account, including diesel fume emissions from queuing vehicles.
13. Stoneyford residents will lose their views of the Culm Valley and their outlook will become grey industrial units accompanied by large areas of concrete, signing and lighting.

## **Transport**

14. The MDDC Garden Village website states that the road infrastructure needs to be enhanced to connect Cullompton with the garden village. J28 M5 has recently reached capacity and frequently the A373 Honiton Road has experienced traffic queues of up to one mile long caused by either problems on the M5 and/or at the J28 traffic lights.
15. Introducing an industrial site off the Honiton Road without the enhanced road network will escalate the matter especially with the projected large number of construction vehicles and lorries needed to build the new 5,000 homes.
16. There will be a considerable increase in traffic along the A373 where traffic speeds and volumes are already a problem. No extensive development should be permitted until the supporting infrastructure is constructed to cope with increased traffic flow.
17. A transport link to the Kingsmill site is not proposed. The site could link into Kingsmill via the site to the north which already has an estate road by removing the intervening hedge.
18. The will inevitably link into the allocated field adjacent to Brunel Road and/or Cullompton Business Park. All traffic from the Kingsmill Estate will then have access to the newly proposed junction on the Honiton Road bringing an excessive amount of articulated vehicles through Stoneyford.
19. There is no public transport to the Kingsmill Industrial Estate.
20. There have been accidents on the Honiton Road in the vicinity of the site.
21. Crossing the A373 is already difficult. During recent roadworks near the M5 junction, a temporary traffic light controlled pedestrian crossing was needed. This is likely to be needed again with more traffic using the roads.
22. The simple T junction proposed is inadequate as vehicles exceed the 30 mph speed limit (speeds are around 40 mph generally) and fast moving vehicles could conflict with slow moving traffic in and out of the new access. A roundabout is required at the very least.
23. DCC has commented that the estimated trip rates are not sufficient to require a right turn lane. This may be correct for a stand-alone application but there is an intention to permit a connecting road network from Kingsmill to the new entrance in Honiton Road. The combined usage will need to have a dedicated safety lane. The access should be designed to cater for this excess traffic flow.
24. Mole Valley were required to have a right turn lane. This development should be no different as without one traffic will queue behind vehicles turning into the development.
25. If there are vehicles waiting to turn into the site, traffic will use the private drive opposite to avoid waiting.
26. The entrance is on the brow of a hill and there will be inadequate visibility for vehicles leaving the site.
27. The developer should pay for all highway improvements required.
28. The "lane leading to Brent Knoll" is a private unadopted single lane and not a public right of way and therefore could not be used for access.
29. Parking restrictions should be stipulated around the site to ensure that parked vehicles and vehicles waiting to make deliveries do not increase the chance of collision.
30. Honiton Road will become the new main thoroughfare for the garden village and does not need the added complication of large vehicles turning out of the industrial estate.

### **Flooding and drainage**

31. A flood detention basin is proposed off-site in the green infrastructure area. This should be within the development.
32. Providing bunds to protect the new development will increase flood risk elsewhere. The development will increase flooding to properties nearby.
33. Extract from a Today Programme interview with Sir James Bevan, Chief Executive of the Environment Agency, highlighting climate change and its impacts on increased flood risk. Request that the reports submitted should be updated following latest Environment Agency guidance and Met Office report. Inequitable to permit a development upon land which is unlikely to cope with that enhanced risk, thereby multiplying the same flood risk to the dwellings nearby.

### **Other**

34. 92% of Stoneyford residents are against this development.
35. Residents are unable to submit a formal petition due to Covid restrictions.
36. Stoneyford is a residential area and not a commercial one, which is reinforced by the development of the garden village and the recreational/sports complex proposed adjacent to the site.
37. The proposed garden village should not have an industrial estate at its entrance. This should be a green space buffer for existing residents.
38. The developers plan shows a link to the public footpath. This leads into a private lane/ drive that has a public right of way on it. It is often in wet waterlogged or covered in deep mud and not suitable to walk along.
39. The entrance of the original footway is on Honiton Road and has no view of the new proposed industrial estate so people will not know to use it.
40. Additional footfall will increase maintenance costs of the private lane.
41. The development will encroach on land identified as green infrastructure in the Local Plan. The importance of green space was highlighted during the Covid-19 pandemic and should not be reduced.
42. Removal of quality agricultural land must be opposed.
43. I have seen a document that mentions the existence of a restricted covenant on the plot of land to the north of this application and a 'ransom strip' held between that plot of land and the application area. Is this to force the access to be from Honiton Road rather than from Kingsmill Estate? It is in the public's interest for these facts to be declared in full.

### **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

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

- 1. Principle of development**
- 2. Proposed uses**
- 3. Need for development**
- 4. Design and layout, including parking**
- 5. Impacts on neighbouring residents**
- 6. Highways**
- 7. Flood risk and drainage**
- 8. Public rights of way and green infrastructure**
- 9. Heritage**
- 10. Section 106 Agreement**

## 1. Principle of development

The site is part of a larger site allocated for employment development (Use Classes B2 and B8) under policy CU17 of the Mid Devon Local Plan 2013-2033, and therefore the principle of employment development on this site has already been established through the Local Plan.

Policy CU17 states:

*A site of 10.7 hectares is allocated for employment development, subject to the following:*

- a) 15,000 square metres of employment floor space within use classes B2-B8;*
- b) Provision of a vehicular link from the Kingsmill employment area to Honiton Road;*
- c) Archaeological investigation and appropriate mitigation;*
- d) Protection and enhancement of the existing Public Right of Way;*
- e) Transport assessment and implementation of a travel plan and other non-traditional measures to minimise carbon footprint and air quality impacts;*
- f) Provision of 2 hectares of green infrastructure to include the retention of land in the floodplain, providing a landscape buffer to the west of the site as an area of informal open space; and*
- g) Capacity improvements at Junction 28 M5 to deliver a strategic highway improvement as demonstrated by capacity studies completed to assess the impact of the traffic generated from the site.*

The proposal covers 8.74 hectares of the allocation and includes the first 4,327 square metres of floor space within the full planning application, with the remainder of the floor space subject to future reserved matters applications.

Other strategic policies relating to employment development include policy S1 which sees a development focus at Cullompton as one of Mid Devon's most sustainable settlements, with long-term growth to the east of Cullompton. The policy encourages building a strong, competitive economy through access to education, training and jobs, infrastructure, the creation of new enterprise, economic regeneration and flexibility of uses to respond to changing circumstances; and policies S2 and S6 which seek the provision of 147,000 square metres of commercial floor space within the Local Plan period. Policy S2 sees development concentrated at the 3 main towns, with a development target of 73,500 of commercial floor space at Cullompton. Policy S11 states that Cullompton will develop as a fast growing market town with a strategic role in the hierarchy of settlements in Mid Devon. The town will become the strategic focus of new development reflecting its accessibility, economic potential and environmental capacity. This strategy will improve access to housing and expanded employment opportunities.

Objections have been received in respect of the site not being suitable for employment development, including Stoneyford being a residential area, loss of agricultural land, and the site being at the gateway to the proposed Garden Village.

As mentioned above, the site is already allocated for employment development under policy CU17 so the suitability of the site has already been tested through the Local Plan.

The Garden Village will contain commercial development as well as residential. The allocated area for East Cullompton (Phase 1 of the Garden Village) is shown as "mixed use" in the Local Plan, which will contain a number of different uses including employment. The location of these uses will be considered further through development of the masterplan.

The development would make a significant contribution towards the Local Plan targets, and development in this location is considered to be acceptable in principle.

## **2. Proposed uses**

Policy CU17 allocates the site for employment development within Use Classes B2 (general industry) and B8 (storage and distribution). However, the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 amended these Use Classes, splitting Use Class B2 partly into new Use Class E, and partly remaining in Use Class B2.

The text of policy CU17 states that although the allocation is for B2 and B8, the Council will consider proposals for alternative employment-generating uses on their merits.

New Use Class E is very wide and includes uses such as retail and food and drink outlets, and your officers do not consider it appropriate or desirable to grant a blanket Class E use on the site. To provide some flexibility on the site, whilst also restricting development to employment uses, your officers have agreed with the applicant that the uses should be restricted to B2 and B8, plus sub-class (g) of new Class E:

E(g) Uses which can be carried out in a residential area without detriment to its amenity:

- E(g) (i) Offices to carry out any operational or administrative functions,
- E(g) (ii) Research and development of products or processes
- E(g) (iii) Industrial processes.

This provides a balance between restricting uses to traditional employment uses as required by policy CU17, and providing a development that is able to be flexible to market demands.

## **3. Need for development**

Concern has been raised about the need for employment floor space, objectors referring to empty units on nearby employment sites, and sites without planning permission that have not been built out. Objectors also raise the issue of Covid-19 and the effect on current and future levels of unemployment.

As the site is already allocated for employment under policy CU17 of the Local Plan, there is no policy requirement for the applicant to justify the need for the development through the planning application. The proposal would provide a flexible mix of units and the applicant has demonstrated that he has a number of businesses lined up to take units on the development. The Council's economic development officers have confirmed that there is demand for new units as seen on other nearby employment developments.

## **4. Design and layout, including parking**

Policy S1 requires sustainable design that respects local character, creates safe environments, designs out crime and establishes a sense of place, including the provision of green infrastructure and renewable energy, managing flood risk, conserving natural and heritage resources including providing a net gain in biodiversity, and preventing significant harm to soil, air, water, noise and visual quality.

Policy S9 requires development to sustain the distinctive quality, character and diversity of Mid Devon's environmental assets and minimise the impact of development on climate change through

high quality sustainable design. The policy also requires development to support opportunities to enhance habitats and preserve heritage assets.

Policy DM1 requires new development to be of high quality making efficient use of the site and based upon a clear understanding of the characteristics of the site and the surrounding area, creating safe and accessible places that encourage walking and cycling. Development should be well integrated with surrounding buildings, streets and landscapes, and not have an unacceptably adverse effect on the privacy and amenity of neighbouring properties.

The 11 development plots are located around a central estate road with access from Honiton Road. Detailed designs have been submitted for 3 of the plots, with the remainder of the plots being subject to later reserved matters applications.

The buildings on plots 5, 9 and 10 are similarly designed being steel framed buildings with silver and grey horizontal and vertical cladding over a brick plinth, grey clad roofs, aluminium windows and roller shutter or sectional overhead doors. The buildings are considered to be suitably designed for their use and the scale and appearance of the buildings acceptable for the location. Whilst the application states the use of metallic silver cladding, the applicant has confirmed that the cladding will be matt, not shiny, and it is recommended that this is conditioned to avoid reflective surfaces.

In terms of designing out crime, Devon, Cornwall & Dorset Police have raised no objections to the design and layout but have made some suggestions to ensure the safety of the site and it is recommended that the applicant takes these suggestions on board.

There will be an element of cut and fill to existing ground levels to provide a level building footprint, yard and parking areas. Cut and fill has been kept to a minimum, with the use of a split building on Plot 10 to take account of the existing contours.

Policy DM5 states that development must provide an appropriate level of parking, taking into account the accessibility of the site and the type, mix and use of development. Design must enable the maximum use of sustainable modes of transport, including provision for cyclists and low-emission vehicles.

Plots 9 and 10 would provide parking in line with parking standards set by policy DM5. Plot 5 is a 50/50 mix of B2 and B8 which requires 41 parking spaces to meet the Council's parking standards. However, the proposal would provide only 30 parking spaces. The unit would provide a bespoke building designed for a specific end-user who has assessed the need for parking based on its own requirements. Whilst the parking provision is below the standard required by DM5, your officers consider the level of parking has been justified and would not warrant refusal of the application on this point.

Cycle parking and electric charging points on each unit will be provided to meet standards required by policy DM5.

Parking for each of the plots under the outline part of the application would be assessed under subsequent reserved matters applications.

## **5. Impacts on neighbouring residents**

Policy DM1 states that development should be well integrated with surrounding buildings, streets and landscapes, and not have an unacceptably adverse effect on the privacy and amenity of neighbouring properties.

There are a number of residential properties with the potential to be affected by the development. This includes 3 properties between the site and Mole Valley. These houses have fairly large gardens and there is a distance of between 45 and 55 metres from the rear of these houses to the boundary of the application site.

Plots 10 and 11 are closest to the boundaries of these residential properties. The design of Plot 11 would be the subject of a later reserved matters application. The buildings on Plot 10 have been designed with mono-pitched roofs, the lowest side being closest to the boundary, and there are no windows above ground floor level in the rear elevation facing the boundary. The parking and yard areas are furthest away from the boundary to minimise noise and light disturbances.

There is also a cluster of houses to the north of Honiton Road and to the west of Mole Valley, served by private lanes, one of which is also a public right of way. An area of land to the west of the employment site and to the north of these properties is designated as green infrastructure (see below in this report) and this will minimise adverse effects on the privacy and amenity of these properties. There is a distance of around 90 metres between the closest house and the edge of the developable area of the site.

Concern has been raised that the nearest of these properties will be more visible from the green infrastructure area leading to security concerns. A request has been made for tree planting along the boundary to protect these properties from public view. There is already a public right of way across the green infrastructure area from which the properties are visible, however, the applicant has agreed to plant trees along the boundary as part of its landscaping of the green infrastructure area.

Concern has also been raised that residents will lose their views of the Culm Valley. Loss of a view is not a material consideration in determination of planning applications. The design of proposed buildings where these are being determined through this application seeks to minimise the impacts on outlook from nearby residential properties by keeping the height down, particularly where buildings border gardens, breaking up the massing of larger buildings, and through the use of materials.

Policy DM4 requires applications for development that risks negatively impacting on the quality of the environment through noise, odour, light, air, water, land and other forms of pollution must be accompanied by assessments of the impacts and provide appropriate mitigation.

Objections have been received concerning impacts on nearby residents including noise, vibration and light pollution, as well as contaminants being washed off into water courses and ground water, and hazardous materials being stored on site. Objectors point out restrictions applied to the neighbouring Mole Valley in respect of noise and lighting.

Following a request from Environmental Health, a noise assessment report has been submitted. The assessment considers the potential noise emissions arising from activity levels at the proposed development, and has identified that noise levels arising as a result of probable operations within the three development plots comprising the detailed element are predicted to be at a level defined as a low impact at the closest off-site noise-sensitive receptors. In addition, the assessment also considers the potential noise emissions arising from the outline application and has set readily achievable noise limits that would apply at the closest receptors to the site.

Environmental Health has considered the noise assessment and has recommended conditions in respect of submission of a Noise Management Plan for approval before occupation of any unit, and a restriction on installation of plant and machinery without prior approval.

Environmental Health, Environment Agency and the Highway Authority have recommended conditioning a Construction Environmental Management Plan to minimise disturbance and pollution during the construction phases, and your officers also recommend this condition.

The Lead Local Flood Authority has also recommended conditions to deal with surface water run-off, including treatment where necessary.

In terms of waste generated from the construction and operation of the development, Devon County Council has recommended additional information be provided to supplement the submitted Waste Audit Statement, and it is recommended that provision of this additional information is conditioned in order for the development to comply with the policies of the Devon Waste Plan.

External lighting on the site has the potential to affect bats as well as nearby residents. The ecology report recommends mitigation in the form of site lighting being designed to avoid/minimise light spill through location and angle/shielding of lighting and to ensure lighting is directional with minimal back spill, and 'warm' LED lights are utilised. A condition in respect of external lighting is also recommended by Environmental Health requiring the submission of a Lighting Plan for approval. The recommended condition in this report is in respect of both wildlife and nearby residents.

Subject to mitigation, your officers consider that the proposed development has been designed to minimise adverse effects on the living conditions of neighbouring residents, and as such is in accordance with the requirements of policies DM1 and DM4 of the Local Plan.

Advertisements are covered by the Advertisement Regulations and advertisements and other signage are not considered as part of this planning application.

## **6. Highways**

Policy CU20 states that the Council will use developer funding to deliver infrastructure for Cullompton. Of relevance to this application are the provision of a Town Centre Relief Road and other mitigation to reduce traffic impacts. Policy S11 states that development should make any necessary strategic mitigations to maintain highway capacity, safety, integrity, and sustainability including the M5 and local highway network.

Policy CU17 requires capacity improvements at Junction 28 M5 to deliver a strategic highway improvement as demonstrated by capacity studies completed to assess the impact of the traffic generated from the site.

Policy S8 states that developers will be expected to contribute fairly towards new or improved infrastructure and facilities where it is appropriate for them to do so. Planning permission will be granted only where the impact of development is not considered to be severe. Where severe impacts that are attributable to the development are considered likely, including as a consequence of cumulative impacts, they must be subject to satisfactory mitigation.

Cullompton Town Council has no objection to the application provided the road infrastructure is improved before any works start, in particular the traffic lights at Junction 28 of the M5, the access and egress of Kingsmill Road and Honiton Road coming down from Mole Valley Farmers



The Highway Authority has considered the application and requirements for road improvements. It has stated that the submitted Transport Assessment is a robust assessment of the existing conditions and the impact this development would have on the local highway network and the assessment shows this would not be a severe impact. The Highway Authority do not consider the impact on the existing local highway network to be severe or warrant refusal of the application.

However, the development would increase the amount of traffic using the highway network at the junction with the M5 motorway. In particular, an increase in traffic on the roundabout at the junction could lead to an increase in congestion. The Highway Authority have confirmed that the mitigation sought under policy CU17 to deliver capacity improvements at Junction 28 would be met by a financial contribution towards delivery of the Town Centre Relief Road, which would reduce traffic congestion on the roundabout.

The contribution requested is £418,511 which is based on the trip generation set out in the applicant's Transport Assessment and takes into account provision of the strip of land for future highway improvements (see next paragraph below).

However, employment sites in general have a limited margin of profitability. The applicant has stated that the development would not be viable with such a large financial contribution towards the Town Centre Relief Road. To support this, the applicant has submitted a viability appraisal which demonstrates that the development would not be viable and would not come forward if the requested relief road contribution were to be required. Your officers have had the applicant's viability appraisal independently assessed and the Council's consultant has confirmed that at the present time, the development would not be viable with the requested contribution.

However, the Council's consultant considers the quoted potential costs of delivering the infrastructure to be high, and there are few up to date comparable land transactions to set sales values. In addition, for the outline part of this application, the total amount of floor space to be delivered will not be known until reserved matters applications are submitted. For this reason, your officers are recommending a review mechanism be included in the Section 106 Agreement to provide for a reassessment of the viability of the site once 4,250 square metres of floor space is occupied (25% of the total projected floor space in the applicant's viability appraisal).

A 20m wide corridor is to be safeguarded for use by Devon County Council for a potential future dual carriageway that may be required in connection with future improvements to the strategic road network. The proposed internal highway layout is designed to form one side of the dual carriageway should the proposals come forward in future. This strip of land represents substantial potential future mitigation of traffic increases at the junction and your officers recommend that the safeguarding this strip of land should be included within the Section 106 Agreement.

Policy DM3 requires development to ensure safe access to the transport network. Development proposals that would give rise to significant levels of vehicular movement must be accompanied by an integrated Transport Assessment, Travel Plan, traffic pollution assessment and Low Emission Assessment.

Objections have been received in respect of the ability of the road infrastructure to cope with the additional traffic, in particular large commercial vehicles, and also the suitability of the access proposals, in particular the lack of a right turn lane or a roundabout, and the visibility along Honiton Road as the access would be on the brow of a hill. Objectors have stated that the developer should pay for the necessary highway improvements.

The Highway Authority has considered the submitted Transport Assessment and concluded that the proposed T-junction access is acceptable. The visibility splays have been based on a speed

of 40 mph rather than the speed limit of 30 mph, which is considered appropriate by the Highway Authority. The Highway Authority have confirmed that the traffic generated by the site is insufficient to demand a dedicated right-hand turn lane.

There have also been comments regarding the lack of a link to Kingsmill Industrial Estate as required by policy CU17, and the opposite concern about the future potential of the site to link into Kingsmill with the corresponding increase in traffic at the new access onto Honiton Road. The existence of a restrictive covenant and ransom strip has also been raised in one of the objections and it has been suggested that this is forcing an access to be provided from Honiton Road.

Policy CU17 of the adopted Local Plan requires provision of a vehicular link from the Kingsmill employment area to Honiton Road. Whilst restrictive covenants and ransom strips are issues outside of the planning application process, at the present time, it is understood that there are legal issues presently preventing development of the land to the north of the application site that is needed to provide the link road. This land has planning permission and has already been laid out with an estate road but its development has been stalled for many years and is unlikely to be resolved in the short term. It is anticipated that in the future the issues with deliverability of the site to the north may be resolved and a link could be provided between the two sites to accord with Mid Devon's adopted policy.

When and if that happens, there will need to be a new assessment of the road junction onto Honiton Road in light of the potential for increased traffic at the junction, as part of a future planning application. At present, only the suitability of the proposed junction for the application site needs to be considered.

Whether or not a link is provided between Honiton Road and Kingsmill Estate as set out in policy CU17, the policy makes provision for access from the application site onto Honiton Road in any event.

Whilst bus services along Honiton Road are not a feasible option to travel to the development due to the infrequency of services, there is a bus stop in Millennium Way where bus services are more frequent and which is within a reasonable walking distance of the site. There is also the option to cycle from Cullompton and secure cycle parking will be provided on site.

A framework Travel Plan has been included within the Transport Assessment which sets out a proposed strategy for the introduction of a package of measures aimed at limiting the number of car trips and promoting alternative sustainable travel options amongst the staff working at the scheme. These measures include the provision of secure cycle parking, a pedestrian link to the existing public right of way, public transport timetables, and promoting car sharing. It is recommended that implementation of a full Travel Plan is secured within the Section 106 Agreement.

Subject to the mitigation set out above, the proposal is considered to comply with the relevant policies set out in this section of the report.

## **7. Flood risk and drainage**

Policy S9 requires provision of measures to reduce the risk of flooding to life and property, requiring sustainable drainage systems including provisions for future maintenance, guiding development to locations of lowest flood risk and avoiding an increase in flood risk elsewhere.

Policy DM1 requires appropriate drainage including sustainable drainage systems (SUDS), including arrangements for future maintenance, and connection of foul drainage to a mains sewer where available.

The site lies within flood zones 1, 2 and 3 (flood zone 1 having the lowest flood risk). There has been some recent remodelling of the flood zones in this area and this has been taken into account within the application.

All buildings are proposed to be located within flood zone 1, with an attenuation pond in flood zone 2 and the green infrastructure in flood zones 2 and 3. This is acceptable to the Environment Agency, provided there is no raising of ground levels in Flood Zone 3, and no bunds provided for the attenuation pond.

The site is already allocated for employment and provided there are no buildings in flood zones 2 and 3, there is no requirement to carry out a sequential test.

The Environment Agency has recommended conditions, which your officers also recommend are included on the decision notice.

Surface water would be attenuated within underground and above-ground features before discharging surface water to the Kenn Stream. The applicant has proposed to construct a detention basin to manage the long-term storage volume for the entire site as well as to treat surface water. This basin will also provide storage for surface water from the proposed estate road. Devon County Council as Lead Local Flood Authority requested additional information which has now been provided. The Lead Local Flood Authority considers the surface water drainage scheme to be acceptable, subject to further information and details of mitigation which your officers recommend are conditioned.

Objections have been received that the flood detention basin should be included within the development rather than within the green infrastructure area. As mentioned above, the Environment Agency consider the location of the basin to be acceptable. Green infrastructure can have multiple uses and benefits, including water attenuation, which can also benefit wildlife. The location of the basin as shown is considered acceptable by your officers.

Concern has also been raised that providing bunds to protect the new development will increase flood risk elsewhere. However, no bunds will be provided and ground raising will be prohibited in Flood Zone 3. The attenuation basin will be sunk into the ground, not raised. The layouts of Plots 1 and 2 nearest to the green infrastructure and flood zone areas will be assessed under future reserved matters applications. The Environment Agency requires that the detailed design and layout of Plots 1 and 2 be informed by the latest flood risk modelling, and information submitted to demonstrate that their siting and design will not result in an increase in flood risk on or off the site.

Concern has also been raised that the flood risk report was submitted before the latest guidance was issued by the Environment Agency and Met Office on flood risk and climate change. The Environment Agency has fully considered the submitted flood risk report and has not asked for further or updated information at this stage, although they have recommended a condition relating to the detailed design of the two plots closest to the flood zone being informed by the latest flood modelling.

Foul drainage will be to the mains sewer.

Subject to conditions, the proposal is considered to be acceptable as regards flood risk and drainage, and to be in accordance with policies S9 and DM1 of the Local Plan.

## **8. Public rights of way, green infrastructure and ecology**

Policy CU17 requires provision of 2 hectares of green infrastructure to include the retention of land in the floodplain, providing a landscape buffer to the west of the site as an area of informal open space; and protection and enhancement of the existing Public Right of Way.

Policy DM26 requires major development proposals to demonstrate that green infrastructure will be incorporated within the site as follows:

- a) Biodiversity mitigation, resulting in a net gain in biodiversity;
- b) Flood and water resource management;
- c) Green corridors and public rights of way to link the site to the wider GI network, provide walking and cycling opportunities and avoid habitat fragmentation; and
- d) New green infrastructure such as the creation of native woodland where possible.

Policy S1 requires the conservation of natural resources including providing a net gain in biodiversity.

Concern has been raised that the development will encroach on land identified as green infrastructure in the Local Plan. Following discussions with the applicant, the area originally shown as GI has been increased and now the area of GI to be provided is in excess of the 2 hectares required by policy CU17.

The green infrastructure area will be enhanced to provide additional wildlife habitats in the form of areas of wet woodland, wildflower grasslands and native hedge and shrub planting to buffer existing hedges and provide a net gain in biodiversity.

The green infrastructure area will also include an attenuation basin to provide flood and water resource management. It is recommended that provision, management and maintenance of the green infrastructure area is secured through the Section 106 Agreement.

The initial ecology report identified a number of protected species using the site including bats, birds and dormice. Further survey work was carried out in respect of bats and dormice.

Mitigation for nesting birds would include avoiding works during the nesting season and the provision of bird boxes.

The bat survey identified a low level of bat activity across the site by a high number of bat species with the eastern and western hedgebanks recording the most activity. Mitigation would include retaining trees, buffering existing hedges with additional planting, controlling lighting on the site, and the installation of bat boxes.

Evidence of dormouse presence was recorded within the northern, eastern, western and central hedgerows on site in the form of nests. Mitigation would include habitat retention, buffering of hedgerows to maintain and enhance habitat available for commuting/foraging dormice within the site. The provision of patches of native hedgerow planting in the western extent of the site will provide additional habitat suitable for this species.

The ecology report specifies that a European Protected Species Licence will be required from Natural England in respect of dormice, due to some limited hedgerow removal being likely to affect dormouse habitat. This Licence would approve the mitigation scheme.

Where an EPS Licence is considered necessary, the Local Planning Authority must consider 3 tests before granting planning permission:

1. The proposed development must meet a purpose of preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment.

The development would provide employment development to help meet Local Plan targets and provide opportunities for economic growth in Cullompton. The site is already allocated for employment development.

2. There is no satisfactory alternative.

The site is already allocated for employment development. The proposal seeks to minimise the impacts of the development on protected species as far as possible by retaining and enhancing the majority of the existing hedgerows, whilst remaining viable for employment use.

3. The action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range.

The mitigation proposals would minimise impacts on dormice by removing as little hedgerow as possible to facilitate the development and would provide alternative habitats.

The tests should be applied on a proportionate basis, the justification required increasing with the severity of the impact on the species or population concerned. The site supports a low number of dormice which would be provided with alternative habitats.

The presence of otters and water voles along the river boundary is assumed and mitigation would be put in place in respect to protect these species.

There is an existing public right of way crossing the site that is to be retained and is not being closed. This existing public right of way connects Kingsmill Industrial Estate with Honiton Road via a private lane to the south of the proposed green infrastructure area. The applicant is proposing to provide a new connection from the employment site into the existing public right of way to then connect onto Honiton Road. This route is an alternative to providing a new footway along Honiton Road which does not have sufficient width to allow this provision.

It is not proposed to use the "lane to Brent Knoll" as a public footpath to the development.

Concern has been raised that the proposed footpath link leads onto a public right of way that is often wet and muddy and the entrance to the public right of way does not provide a view of the site and people will not know to use it.

The applicant will be required to upgrade the section of the public right of way between the private lane and the connection with the new section of path leading to the development and it is recommended this is secured by Section 106 Agreement. A Travel Plan will be issued to all occupiers of the units specifying the walking route from Honiton Road to the development.

Concern has also been raised that increased use will lead to increased maintenance costs for the upkeep of the private lane over which the public right of way passes. This public right of way already exists and there is no limit to the number of pedestrians that can use a public right of way. There will be no vehicular access along this lane to the development.

Subject to conditions and the signing of a Section 106 Agreement, the proposal is considered to comply with policies CU17, S1 and DM26 in respect of green infrastructure, ecology and public rights of way, and the biodiversity net gain requirements set out in the National Planning Policy Framework.

## **9. Heritage**

Policy DM25 requires development proposals likely to affect the significance of heritage assets, including new buildings to consider the significance of those heritage assets. Policy CU17 requires archaeological investigation and appropriate mitigation.

The proposed development lies in an area of archaeological potential to the east of the Romano-British and medieval settlement at Cullompton and in an area where evidence of the Roman road leading eastward from the Roman fort at St Andrew's Hill might be present. While some archaeological monitoring of geotechnical pits has been undertaken across the site, this represents a small sample of the site upon which to understand the presence of any archaeological features.

Groundworks for the construction of the proposed development have the potential to expose and destroy archaeological and artefactual deposits and the impact of development should be mitigated by a programme of archaeological work that should investigate, record and analyse the archaeological evidence that will otherwise be destroyed.

The Historic Environment Team have recommended a programme of archaeological work to be undertaken and it is recommended that this is secured by condition. There are no other heritage assets likely to be affected by the proposals.

Subject to mitigation, the proposal is considered to comply with policies DM25 and CU17 in this respect.

## **10. Section 106 Agreement**

A Section 106 Agreement is sought to make provision for the following measures. Details of these obligations are set out above in the relevant sections of this report:

1. A 20 metre strip of land to the southern side of the development to be safeguarded for potential future highways improvements
2. Provision of new footpath and upgrading of existing public right of way
3. Travel plan
4. Provision, management and maintenance of green infrastructure/public open space
5. A review clause to reassess viability of the scheme with regard to a contribution towards the TCRR at a trigger point of the occupation of 4,250 square metres of floorspace, based on actual achieved costs and transacted sales values being secured to determine how much contribution needs to be paid through s106 on the remaining plots.

The Section 106 obligations set out above are considered to be 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, and to meet the tests set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended).

## REASON FOR APPROVAL OF PERMISSION

The proposed development comprising full planning permission for the erection of 4 industrial units on Plots 5, 9 and 10 and creation of new vehicular access and estate road, parking, detention basin and landscaping; and outline planning permission for employment uses on 8 further plots with layout, scale, appearance and landscaping reserved for future consideration is considered to be acceptable in this location. The site is allocated for employment uses and it is considered that, subject to conditions, the development could be carried out without causing demonstrable harm to the character of the area, the significance of local heritage assets, highway safety, local amenity and ecology, and without increasing the risk of flooding. As such, it is considered that the proposed development satisfactorily accords with policies CU17, CU20, S1, S2, S6, S8, S9, S11, DM1, DM3, DM4, DM5, DM25 and DM26 of the Mid Devon Local Plan 2013-2033, the Devon County Council Waste Plan and the National Planning Policy Framework.

## CONDITIONS – FULL

1. The development hereby permitted in respect of the access and estate road, pedestrian footpath link, green infrastructure area and attenuation basin, and development on plots 5, 9 and 10 shall begin before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice.
3. No development shall begin 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 and Drainage Strategy.
  - 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 plan indicating how exceedance flows will be safely managed at the site.
  - e) Model outputs to demonstrate that the proposed flow control will restrict flows to the relevant greenfield runoff rates for the positively drained area. These outputs must also demonstrate that the flows can be safely managed within the basin with a suitable freeboard of 300mm.

No building shall be brought into use until the works have been approved and implemented in accordance with the details under (a) - (e) above.

4. There shall be no alterations to ground levels, including the deposit of soil or other materials, within the area to the west of the line indicating the indicative extent of Flood Zone 3 on drawing number PIN1013(13)01, except for the excavation of the attenuation basin, full details of which shall be approved under condition 3. above. The attenuation basin shall not include any raised land or bunds.
5. Materials to be used for the external surfaces of the buildings shall be matt and not metallic or shiny.

6. No building on any plot shall be brought into use until the associated vehicle and cycle parking, electric charging points, refuse storage areas and landscaping on that plot have been provided in accordance with the approved plans listed in the schedule on the decision notice.

## **CONDITIONS - OUTLINE**

7. Before any part of the development hereby permitted begins, detailed drawings of the layout of plots 1, 2, 3, 4, 6, 7, 8 and 11, as indicated on drawing number PIN1013(10)05 Rev H, the scale and appearance of the buildings and landscaping on and adjacent to those plots (hereinafter called the Reserved Matters) shall be submitted to and approved in writing by the Local Planning Authority.
8. The detailed design and layout of plots 1 and 2 as indicated on drawing number PIN1013(10)05 Rev H shall be informed by the latest flood risk modelling, and information shall be submitted with the reserved matters submission/s to demonstrate that their siting and design will not result in an increase in flood risk on or off the site.
9. Application(s) for approval of all the Reserved Matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.
10. The development hereby permitted shall begin either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of approval of the last of the Reserved Matters which have been approved, whichever is the later.
11. The outline development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice.
12. The detailed drawings required to be submitted by Condition 7 shall include the following information: boundary treatments, existing and proposed site levels, finished floor levels and materials.
13. Prior to or as part of the Reserved Matters, the following information shall be submitted to and approved in writing by the Local Planning Authority:
  - a) A detailed drainage design based upon the approved Flood Risk Assessment.
  - b) Detailed proposals for the management of surface water and silt run-off 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 plan indicating how exceedance flows will be safely managed at the site.
  - e) Model outputs to demonstrate that the proposed flow control will restrict flows to the relevant greenfield runoff rates for the positively drained area. These outputs must also demonstrate that the flows can be safely managed within the basin with a suitable freeboard of 300mm.

No building shall be occupied until the works have been approved and implemented in accordance with the details under (a) - (e) above.

## **CONDITIONS - GENERAL**

14. No development shall begin until the access and visibility splays have been provided and laid out for that purpose at the site access in accordance with drawing number PHL-101 Rev A. The visibility splays will provide unobstructed visibility over a height of 600mm metres above



the adjacent carriageway level; the distance back from the nearer edge of the carriageway of the public highway being 2.4 metres and the visibility distances along the nearer edge of the carriageway of the public highway being 70 metres in both directions. Once provided, such access and visibility splays shall be maintained for that purpose at all times.

15. No development begin until the developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation (WSI) which shall have been previously submitted to and approved in writing by the Local Planning Authority. The development shall be carried out at all times in accordance with the approved scheme, or such other details as may be subsequently agreed in writing by the Local Planning Authority.
16. Prior to the commencement of development on each phase a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority. In respect to the protection of residential amenity and the local environment, 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 access to the site.

The CEMP shall also set out details of all permits, contingency plans and mitigation measures that shall be put in place to control the risk of pollution to air, soil and controlled waters, protect biodiversity and avoid, minimise and manage the productions of wastes with particular attention being paid to the constraints and risks of the site.

The following specific details should also be included in respect to highway safety:

- 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 including 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 proposed route of all construction traffic exceeding 7.5 tonnes;
- g) 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;
- h) 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;
- i) hours during which no construction traffic will be present at the site;
- j) the means of enclosure of the site during construction works;
- k) details of wheel washing facilities and obligations, and measures to be employed to prevent the egress of mud, water and other detritus onto the public and any non-adopted highways; and
- l) photographic evidence of the condition of adjacent public highway prior to commencement of any work.

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

17. Prior to the commencement of development in each phase, a supplemental Waste Audit Statement shall be submitted to and approved in writing by the Local Planning Authority. The Waste Audit Statement shall include:
  - a) The amount of construction, demolition and excavation waste in tonnes.
  - b) The type of material the waste will arise from during construction, demolition and excavation
  - c) The method for auditing the waste produce including a monitoring scheme and corrective measures if failure to meet targets occurs.
  - d) The predicted annual amount of waste (in tonnes) that will be generated once the development is occupied.
  - e) Detail of the waste disposal method including the name and location of the waste disposal site.
18. In accordance with details that shall previously have been submitted to and approved by the Local Planning Authority, provision shall be made within the site for the disposal of surface water so that none drains on to any County Highway during the construction phase or for the lifetime of the development.
19. No development shall begin until an Air Quality Impact Assessment has been submitted to and approved in writing by the Local Planning Authority. The Air Quality Impact Assessment shall consider the impact of the development on local air quality and relevant sensitive receptors, the impact of existing local air quality on the development and relevant sensitive receptors, cumulative affects with other development, and any necessary mitigation. All required mitigation measures shall be carried out in accordance with the approved details before any building is brought into use.
20. No development shall begin until a Landscape and Ecological Mitigation Plan (informed by the Impacts and Recommendations section of the Ecological Appraisal by Devon Wildlife Consultants dated December 2020) has been submitted to and approved in writing by the Local Planning Authority. Such Plan shall include details of all landscape planting, biodiversity enhancements and ecological mitigation, together with a phasing plan for implementation. Unless otherwise approved in writing by the Local Planning Authority, the development shall be implemented in accordance with such approved Plan and all implemented landscape planting, biodiversity enhancements and ecological mitigation shall be permanently retained maintained for their intended purpose.
21. No building or other part of the site shall be first occupied until a Noise Management Plan (NMP) and implementation schedule has been submitted to and approved in writing by the Local Planning Authority. The NMP shall consider the impacts of noise (including low frequency noise) from the relevant phase of the development on key receptors during the operational stage of the development and provide strategic mitigation measures, together with an implementation timetable and maintenance details. The development (or relevant phase of development) shall be carried out in accordance with the approved NMP and the timetable for the mitigation measures. These approved measures shall thereafter be maintained in perpetuity.
22. No refrigeration unit, cooling system, extract ventilation system or other similar system likely to emit noise with the potential to be audible off site shall be installed on the site or any building

unless details of mitigation has been submitted to and agreed in writing by the Local Planning Authority to ensure that the noise generated at the boundary of the nearest residential property shall not exceed Noise Rating Curve 35, as defined in BS8233:2014 Sound Insulation and Noise Reduction for Buildings Code of Practice and the Chartered Institute of Building Service Engineers Environmental Design Guide.

23. No external lighting shall be provided on site except in accordance with a lighting scheme that shall be submitted to and approved in writing by the Local Planning Authority before installation of any external lighting. The lighting scheme shall take the form of a report and drawings and shall be informed by the mitigation and enhancement recommendations set out in the Impacts and Recommendations section of the Ecological Appraisal by Devon Wildlife Consultants dated December 2020, and shall take into account the impacts of intrusive light on nearby residents.
24. The development shall be used only for purposes falling within Use Classes E(g), B2 and B8 of the Town and Country Planning (Use Classes) Order 1987, as amended by the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 and for no other purpose (including any purpose in any statutory instrument revoking and re-enacting that order with or without modification).

#### **REASONS FOR CONDITIONS – FULL**

1. In accordance with provisions of Section 51 of the Planning and Compulsory Purchase Act 2004
2. For the avoidance of doubt in the interests of proper planning.
3. 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 condition should be pre-commencement since it is essential that the proposed surface water drainage system is shown to be feasible before works begin.
4. To ensure that the development does not increase flood risk elsewhere.
5. To ensure the development has an acceptable visual impact within the wider landscape.
6. To ensure that facilities are provided on site for traffic attracted to the site and to protect the visual amenities of the area.

#### **REASONS FOR CONDITIONS – OUTLINE**

7. In accordance with the provisions of Section 92(2) of the Town and Country Planning Act 1990 as amended by Section 51 Planning and Compulsory Purchase Act 2004.
8. To ensure the development does not increase flood risk elsewhere.
9. In accordance with the provisions of Section 92(2) of the Town and Country Planning Act 1990 as amended by Section 51 Planning and Compulsory Purchase Act 2004.
10. In accordance with the provisions of Section 92(2) of the Town and Country Planning Act 1990 as amended by Section 51 Planning and Compulsory Purchase Act 2004.
11. For the avoidance of doubt in the interests of proper planning.

12. To enable the Local Planning Authority to consider whether adequate provision is being made for the matters referred to in the condition.
13. 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.

## **REASONS FOR CONDITIONS - GENERAL**

14. To provide adequate visibility from and of emerging vehicles and a safe and suitable access.
15. To ensure, in accordance with Policy DM27 and paragraph 199 of the National Planning Policy Framework (2019), that an appropriate record is made of archaeological evidence that may be affected by the development. This pre-commencement condition is required to ensure that the archaeological works are agreed and implemented prior to any disturbance of archaeological deposits by the commencement of preparatory and/or construction works.
16. To minimise the effects of the construction of the development on the environments and neighbouring occupants in respect of pollution and traffic movements.
17. To ensure waste from the construction and operation of the development is minimised/controlled.
18. In the interest of public safety and to prevent damage to the highway.
19. To assess the potential health risks to relevant sensitive receptors from local air quality and identify required mitigation measures.
20. To ensure the development protects and enhances biodiversity on the site and the landscaping contributes to the visual quality of the development.
21. To ensure that the use of the buildings and associated service yards, parking areas and accesses do not cause any unreasonable loss of amenity by reason of noise to nearby residential properties.
22. To ensure that the use of the buildings and associated building services plant does not cause any unreasonable loss of amenity by reason of noise to nearby residential properties.
23. To minimise the impacts on wildlife and nearby residents.
24. The site is allocated for employment uses and the Council wishes to ensure an adequate supply of employment land to meet the needs of the area.

## **INFORMATIVES**

### **1. Flood Risk Activity Permit**

This proposal is located adjacent to a watercourse which is designated a main river at this location. Under the terms of the Environmental Permitting (England and Wales) Regulations 2010 a permit is required for any proposed works or structures, in, under, over or within eight metres of the top of the bank of the river. Further details are available on the GOV.UK website:

<https://www.gov.uk/guidance/flood-risk-activities-environmental-permits>. A permit is separate to and in addition to any planning permission granted.

## 2. Construction Environment Management Plan

The Construction Environment Management Plan (CEMP) should pull together and manage the pollution control and waste management requirements during the construction phase. A CEMP is best prepared with the main contractor. Run off from exposed ground / soils can pose a significant risk of pollution to nearby watercourses, particularly through soil/sediment run off and the CEMP should address how such run-off can be minimised, controlled and treated (if necessary). Please ensure that this is considered well in advance as some treatment methods can require an Environmental Permit to be obtained.

## 3. Noise Management Plan

Items for inclusion in the plan should include:

1. Design and layout of the site to ensure no active or working areas back on to residences.
2. Design and layout of the site to minimise the need for reversing vehicles, particularly delivery vehicles.
3. A commitment to ensure no building openings (other than fire escapes) are included on any façade facing residences.
4. A commitment to ensure that no potentially noisy air conditioning units, extract systems or flues are located on the facades facing residences.
5. The consideration of site boundary treatments. For example acoustic fencing may be required in parallel with existing boundary treatments with residences where acoustic protection is not provided by the building itself.
6. Where possible goods in and out areas to be located remote from residences.
7. No waste storage or recycling areas to be located adjacent to residential boundaries.
8. Additional consideration for buildings which may be used for all night working, such as distribution centres.
9. A commitment to comply with the cumulative 1 hour noise limits for day and night (41 dB and 36dB respectively) set out in the Inacoustic report Dec 2020.
10. A prohibition on high frequency audible reversing alarms on any vehicle based on the commercial area (there are alternative quiet safe reversing techniques available).

## 3. Public Rights of Way

The alignment, width, and condition of public rights of way providing for their safe and convenient use shall remain unaffected by the development unless otherwise agreed in writing by the Public Rights of Way Team. Nothing in this decision notice shall be taken as granting consent for alterations to public rights of way without the due legal process being followed.

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.

The Human Rights Act 1998 came into force on 2 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.

In accordance with the requirements of Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, in determining this application the Local Planning Authority has worked proactively and positively with the applicant to ensure that all relevant planning considerations have been properly resolved. This has included further discussion and negotiations 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.

Application No. 21/00453/FULL

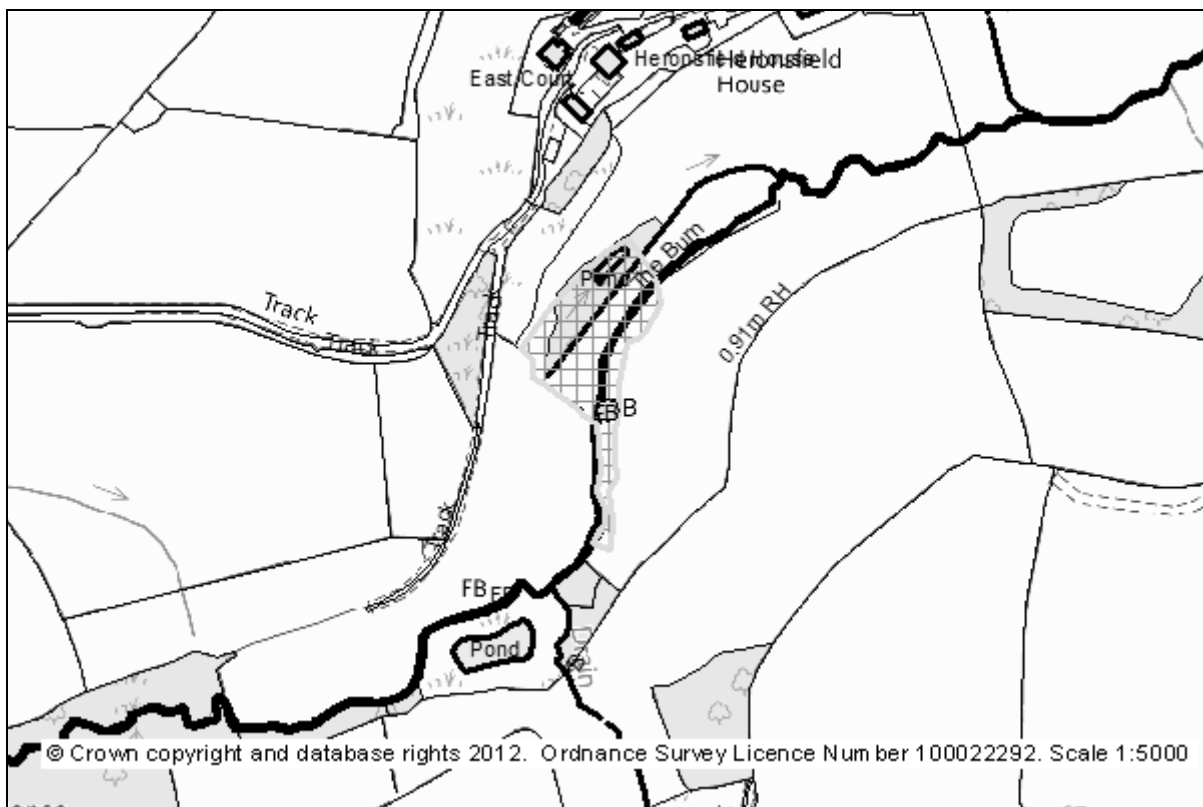
Grid Ref: 292608 : 107501

Applicant: Mrs H Harper

Location: Land at NGR 292586 107415  
Heronsfield House  
Cadeleigh  
Devon

Proposal: Change of use of agricultural land for siting of two off grid mobile cabins for holiday use

Date Valid: 24th March 2021



## **APPLICATION NO: 21/00453/FULL**

### **MEMBER CALL-IN**

Called in by Cllr Bob Deed, in order to consider the potential visual impact of the proposed development and the impact on access and traffic in the local vicinity.

### **RECOMMENDATION**

Grant permission subject to conditions

### **PROPOSED DEVELOPMENT**

Change of use of agricultural land for siting of two off grid mobile cabins for holiday use.

The proposed development relates to an open field within a small valley between Cadeleigh and Bickleigh. The site is accessed from an existing private track and public footpath, which joins the main road between Cadeleigh and the A3072 junction at Bickleigh. The applicant's home, Heronsfield House, is sited off this track, with the application site on lower ground to the south. There are four other residential properties, some agricultural buildings and a commercial business located along the track. The application site comprises approximately 2 acres of land within the valley, with mature planting to the boundaries and alongside the stream running through the valley. In the last couple of years, the applicants have worked on improving the biodiversity of their wider landholding within the valley, which includes the planting of over 5400 trees across 15 acres of land.

It is proposed to change the use of the application site from agricultural land to the provision of two off grid holiday units within a back to nature style glamping site. The two units are designed to accommodate two adults each, and will measure 6 metres by 2.85 metres in area. They are proposed to be sited on specially commissioned agricultural trailers to create a rolling frame. The two units will be of different design with one having a mono-pitch roof with a maximum height to eaves of approximately 3.4 metres and lower eaves height of about 2.2 metres. The other unit would have an offset dual pitched roof with a ridge height of approximately 3 metres and eaves heights of about 2.7 metres and 2.4 metres. One of the units is proposed to be constructed black stained vertical timber board cladding with a black rubber membrane (EPDM) roof. The other is proposed to be constructed from a grey corrugated galvanised steel cladding, with corrugated galvanised steel roof.

Two visitor parking spaces are proposed to be provided within a barn at the entrance to Heronsfield House, with access to the accommodation via mown paths in the grass. A small area of approximately 11.25 square metres would be trimmed adjacent to each unit to provide a small seating/amenity area.

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

Site location and block plans  
Elevation and floor plans  
Design and access statement  
Business marketing plan  
Letter of support from Canopy & Stars



Site management plan  
Wildlife trigger table  
Preliminary ecological survey  
Flood risk assessment  
Flood map  
Foul drainage assessment form  
Further information in respect to foul waste disposal

## **RELEVANT PLANNING HISTORY**

18/00995/FULL - REFUSE date 31<sup>st</sup> August 2018  
Removal of condition (d) of planning permission 84/01574/OUT relating to an agricultural tie  
03/01949/CLU - PERMIT date 9<sup>th</sup> October 2003  
Certificate of lawful use for continued occupation of dwelling without compliance with condition (d) of planning permission 4/09/84/1574 - agricultural tie  
86/00422/FULL - REFUSE 5<sup>th</sup> May 1986  
Relaxation of condition (d) 4.09.84.1574 re agricultural occupancy  
85/00311/ARM - PERMIT 24<sup>th</sup> April 1985  
Detailed drawings for the erection of an agricultural dwelling  
84/01574/OUT - PERMIT 28<sup>th</sup> November 1984  
Outline for the erection of an agricultural dwelling

## **DEVELOPMENT PLAN POLICIES**

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

S1 - Sustainable development priorities  
S9 - Environment  
S14 - Countryside  
DM1 - High quality design  
DM3 - Transport and air quality  
DM4 - Pollution  
DM5 - Parking  
DM22 - Tourism and leisure development  
DM25 - Development affecting heritage assets

### **National Planning Policy Framework**

## **CONSULTATIONS**

**CADELEIGH PARISH MEETING** - Due to Covid 19 restrictions, Cadeleigh Parish Meeting have not been able to meet. The following comment has however been received from Mr Richard Gough, The Parish Chairman:

*“Further to the above application, I write to object to the Planning Application on behalf of Cadeleigh Parish as the current Chair recognised by MDDC.*

*As the lockdown has prevented our ability to hold a Parish Meeting, I have canvassed views of residents in Cadeleigh Village and have collated and compressed them to enable me to give an overview as follows.*

*This is a further application for increased tourism in our small village along with recent other sites that are attempting to justify their application by reference to the MDDC Local Plan particularly*

*Policy DM22. Unfortunately this application in our view fails the tests set out in this Policy as follows:-*

*This field is in Agricultural Use and there is consistent demand for agricultural land in this area demonstrated by higher rates for land purchases over the recent pasts including in Cadeleigh parish. The comment in the application that the land is not used for agriculture land in the very recent past is because of this attempt to justify the applicants request for change of use. Placing holiday buildings in an agriculture field is not in accordance with the Policy. The adjacent landowners would be pleased to continue the agricultural use which would reduce the impact of this change particularly in terms of traffic. In 2018 an attempt to change the agriculture use was refused by the Planning Authority and for the same reasons as stated then we urge this repeated attempt to change is refused.*

*DM22 Development proposals "MUST" seek to locate most developments next to defined settlements and where shops and facilities are most accessible. This development is not next to any defined settlement as it is at least a mile from Cadeleigh Village (the only facilities being a pub and a church!) .There are no facilities in the field and any tourists arriving are almost certain to come by car, acknowledged by the applicants scheme with parking being provided but several hundred metres from the proposed buildings.*

*This does not comply with any attempt to replace existing buildings so again not in accordance with the policy.*

*Whilst there is a very well written business case for this application, it is obviously written in the majority by the company that is looking for additional sites wherever it can find them and it could be written to favour any location! However there are at least 4 Glamping sites in the locality already and more in the pipeline we believe, along with a 50% per cent increase in holiday cottages in our village (noting recent and current applications). The surge in Devon holidays reported by the press is a result of the pandemic and HM Government Lockdown policies and we do not expect this to continue into 2022.*

*Evidence for more Glamping outlined in the Councils Tourism Study (albeit much of which is mostly outdated as written in financial recession not a pandemic) suggests that the three market towns are the biggest draws, but all of which are now 12 years later a shadow of their former life. Retail as we know it disappears into online expressed by the many closed businesses in their centres making a visit to these towns a gloomy empty location after 4pm.... These towns are no draws only their huge free parking food supermarkets are a destination for tourists.*

*Inevitably these buildings will bring more traffic to this site which is only served by a private road the upkeep of which is paid for by the owners. Historic highway reports are against any traffic increases and the businesses in the lane have out of hour's restrictions working to prevent further disturbance to the occupiers (and owners). The junction of the access road to the Cadeleigh to Bickleigh highway is a difficult junction with restricted views and the steep hill to access, not a welcoming route to this destination and the quality of the surface is poor and potholed so not suitable for many drivers cars.*

*So as with other attempted developments on single track roads in the Parish we do not believe this is the right place for what is obviously an attempt to create a new holiday business in an inappropriate location we request that our Councillor Bob Deed requests the Application is called in before the Planning Committee where it can be examined again in the light of local objections."*

**COUNTY HIGHWAY AUTHORITY - 29.03.21** - The County Highway Authority recommends that the Standing Advice issued to Mid Devon District Council be used to assess the highway impacts, on this application.

Following a further request for advice due to correspondence received from the Chairman of the Parish Meeting and local residents, the following more detailed response was made:

06.05.21 - The site is accessed off a private lane which is also a Public Footpath number Cadeleigh 2 which is via a C Classified County Route which is restricted to 60 MPH

The number of personal injury collisions which have been reported to the police in this area between 01/01/2016 and 31/12/2020 is one slight in Nov 2020 which was approximately 100 metres from the junction of the private road.

There has been a number of objections to this application, which state previous Highway Officers comments. Unfortunately the guidance, and in particular the policies, including TR10, which was used on these previous applications have changed. The policy TR10 came from the Devon Structure Plan. This is no longer in use, having been removed by Government legislation some years ago. There was no direct replacement for the Structure Plan. The guidance which is used today is the National Planning Policy Framework 2019. This states in Section 9 paragraph: Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

The existing access on to the Public Highway is sufficient for two cars to pass and therefore this proposal would not create a safety concern at the access. The Visibility splays at this access is suitable for the speeds in this area.

The number of trips this proposal could generate will not be a severe effect on the Highway. Therefore the County Highway Authority has no objections to this application

Recommendation:

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

**COUNTY RIGHTS OF WAY - 14.05.2021** - The Public Rights of Way Team has a duty to assert and protect the rights of the public to the full and free enjoyment of public rights of way and to maintain the network. In addition it is also responsible for the maintenance of recreational trails and unsurfaced roads.

Government guidance considers that the effect of development on a public right of way is a material planning condition (Rights of Way Circular 1/09 - Defra October 2009, paragraph 7.2) and that public rights of way and access should be protected and enhanced with opportunities sought to provide better facilities for users by adding links to existing networks (National Planning Policy framework paragraph 98).

Devon County Council's Rights of Way Improvement Plan policy states that, working closely with LPAs, opportunities will be sought for improvements to the rights of way network through planning obligations where new developments are occurring.

It is also the County Council's policy that a holding objection will be made against any planning application which fails to take account of an existing public right of way until the matter is resolved.

## Response

The proposal as submitted does not affect public footpath No2, Cadeleigh, but we note access to the site runs along this public path.

Should planning permission be granted the applicant must ensure that the path is kept open and available for the public to use during site preparation and construction. If a temporary closure is required the applicant would need to apply to the County Council for a Temporary Traffic Regulation Order. It should be noted a temporary closure cannot be seen as an alternative to adequate safety measures to mitigate risk to public users, and furthermore, the suitability of other routes would also be a consideration.

Please note that the grant of planning permission does not grant the right to close, alter or build over a right of way or road in any way, even temporarily, this includes, for example, a change in the surface, width or location. Nothing should be done to divert or stop up a public right of way or road without following the due legal process including confirmation of any order and the provision of any new path. In order to avoid delays this should be considered at an early opportunity.

**HISTORIC ENVIRONMENT TEAM** - 22.04.2021 - Comments from Sue Watts, Historic Environment Officer

Devon County Historic Environment Team ref: Arch/DM/MD/36458a

I refer to the above application and your recent consultation. Assessment of the Historic Environment Record (HER) and the details submitted by the applicant suggest that there is little potential for the survival of below-ground archaeological remains within the proposal site. However, the proposal site lies within c.450m of the site of an Iron Age defended settlement associated with prehistoric and medieval settlements, a scheduled monument (NHLE 1020130) to the south-east of Cadeleigh Court.

Given the proximity of the proposed site to this nationally important designated heritage asset we would advise that Historic England are consulted with regard to any comments they may have on the proposed development and the setting of the monument.

**HISTORIC ENGLAND** - Consulted on 30<sup>th</sup> April 2021. No response received.

**NATURAL ENGLAND** - 12.04.2021 - Natural England has no comments to make on this application.

**PUBLIC HEALTH** - 09.04.2021

Contaminated Land: No concerns. (31.03.21).

Air Quality: No concerns. (31.03.21).

Environmental Permitting: No objection to this proposal. (24.03.21).

Drainage: The applicant proposes providing 2 earth closet systems, one for each unit. Ablution and other grey water will be discharged into soakaways which will be at least 10m from the nearest watercourse. The EA are satisfied with this arrangement based on the small numbers of

users (maximum 4). However their concern is just the potential for groundwater or the watercourse to be contaminated; our concern is public health. The applicant has suggested that solid waste from the earth closet system will be composted and used on their land. Our view is that guests are not likely to be familiar with the operation of these units and there is potential for personal hygiene to be compromised, particularly at the present time during the Covid pandemic when personal hygiene is so important. Emptying of the contents elsewhere on the land and then retention for composting and use as a mulch are also activities which could compromise the health of people carrying out these tasks. The applicant has not provided details of waste collection arrangements, particularly of other personal hygiene and contaminated waste. Perhaps the applicant could clarify how these matters would be addressed in this remote location (see updated response below). If nuisance arises because of the earth closet systems then alternative arrangements will need to be made, and this might be difficult in this location so close to a stream. Finally the intention is to locate the earth closet within the living accommodation. It is usual to site them in separate units because there is potential for odour if they are not properly managed or if too much liquid is present. (31.03.21).

04.06.21 (ENVIRONMENTAL HEALTH OFFICER) updated response - Thank you for sending the additional information regarding the proposed earth closets. I have reviewed the information and our original comments but my concerns remain regarding the public health implications of using this system for tourists on a permanent basis. The drainage hierarchy on the FDA1 form is very clear and earth closets are not included on it, for good reason. In practice it is not possible to keep urine and solid wastes separate, and there will inevitably be occasions when the toilet must be used for other human wastes (vomit etc). We consider that personal hygiene is particularly important in situations such as this where the occupancy will change frequently. We know that some people living off grid will use a personal earth closet, and that they are used elsewhere on a temporary basis which is uncontrolled, but we do not consider them to be suitable in a tourist setting on a permanent basis. Therefore we maintain our objection to this proposal.

Noise & other nuisances: No concerns. (31.03.21).

Housing Standards: No comment. (29.03.21).

Licensing: No comments. (25.03.21).

Food Hygiene: No comments. (24.03.21).

Private Water Supplies: If a private supply is to be used by more than one property or has a commercial function, The Private Water Supply (England) Regulations 2016 as amended will apply. A risk assessment and sampling regime will be necessary. The supply must not be used until the Local Authority (Mid Devon District Council) is satisfied that the supply does not constitute a potential danger to human health, including single domestic use.

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

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

IF MAINS WATER IS TO BE USED, WOULD HAVE NO COMMENT. (24.03.21).

Health and Safety: No comments. (24.03.21).

**MDDC ECONOMIC DEVELOPMENT OFFICER - 26.05.2021** - The applicant's business plan and marketing strategy provide a realistic business case with a clear marketing strategy and reasonable financial assumptions. They have a clearly defined market and have detailed a tourism offer which is qualitatively different from their competitors locally. I therefore have no objections to the proposal from an Economic Development perspective.

(The Economic Development Officer's full economic appraisal of the proposal is attached to the end of this report as **APPENDIX A**).

## **REPRESENTATIONS**

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

Correspondence has been received from six local residents respect to this application, of which five contributors have written to object, and one to support. The main issues are summarised below:

### Objection

- The proposal will have an adverse impact on highway safety, both along the private track and on the main public highway.
- The track is privately owned and is showing signs of subsidence, and has numerous potholes. It is also narrow with no formal passing places, and several blind bends. In a previous application for the conversion of a barn at East Court Barton in 2010, approval was recommended on the basis that vehicle movements didn't increase. In 2005, the Highway Authority objected to a previous application for a live/work unit on the basis that the location was unsuitable for a new dwelling. This was based on the substandard nature of the approach roads, the substandard junction onto the nearby County Highway and the remoteness from an established settlement. The proposed development will increase use of the lane to the detriment of highway safety.
- The junction with the main road is substandard with poor visibility. Vehicles exiting the lane and heading west usually have to carry out a three point turn on the highway. There are often vehicles parked on the private track just inside the junction, meaning that passing is not possible at this point.
- In a letter from the Highway Authority to one of the contributors, sent during the course of this application, the Highways Development Manager states that they wouldn't recommend pedestrians use the public highway, and also confirms that the visibility splay is not up to scratch.
- This application should be compared to another application at Home Farm, where improvements were requested to the visibility splay.
- The proposal will have a significant adverse effect and harmful impact on the character and appearance of the valley. The site is visible from along the lane and at points on the main road between Cadeleigh village and Bickleigh. Photos supplied by the applicant show the site at its least visible due to the hedge growth at this time of year. The site will be far more visible in winter. Also any new trees on the site will not offer screening as they are only at knee height, having been planted two years ago. These are understood to be slow growing broadleaf species.

- The junction of the lane onto the main public highway is unsafe with poor visibility.
- The owners of the private track have advised that while the applicants have a right of access to their property, they do not have a right of access for commercial purposes. It is suggested that rights of access for the proposal will not be granted. There is also disappointment that the applicant's did not discuss their plans with the track owners.
- There are already two business along the track (a blacksmiths and an events catering business), a cattle farm, 3 residential small holdings, a property with an agricultural tie and a solely residential property.
- There will be an adverse impact on the residential amenity of local residents due to sound travelling easily within this enclosed valley. Late night activities will ruin the peace and harmony of this small community. The prevailing west to south westerly wind means that properties on the lane pick up sounds from at least a quarter of a mile away, including conversations at the bottom of the valley. Some residents are able to hear conversations in properties at the other end of the lane. Being off-grid, it is likely that users would bring their own entertainment such as musical instruments or stereos. It is also unclear how the controls suggested in the management plan could be adequately policed.
- The units would be in full view of the nearest property, causing issues of overlooking.
- Each unit is to be supplied with a log-burner, fire pit and log fired pizza oven. A single log burner in a nearby property already causes smoke to hang in the valley on cooler days. Having up to six more log burning features will be unacceptable.
- Concerns that the proposed low-level lighting and head torches would be insufficient to safely navigate the routes from the car park/track to the accommodation at night, particularly with it being in close proximity to unprotected bodies of water.
- Lighting would have an adverse impact on the character of the area and on local ecology.
- Commercial waste collections would not be viable as bin lorries cannot navigate the track to Heronsfield House. Any commercial wheelie bins would have to be kept at the top of the track on neighbouring land, which is considered to be unacceptable.
- Concerns have been raised about the proposed foul waste arrangements, particularly in respect to storage and with human waste being spread onto the land and potentially leaching into the river Burn and Exe. A composting toilet is likely to cause groundwater contamination close to the river/borehole supply.
- Despite the applicant's suggestion, it is unlikely that users would arrive by public transport, or use public transport, cycle or walk to access nearby local facilities. It is most likely that users will be dependent on a motor vehicle. The 'quiet country road' referred to for users to walk or cycle along, is a very steep hill with many blind bends and no lighting. Over the years there have been vehicle collisions, vehicles overturning and collisions with horse riders due to erratic driving of tourists and some locals. It would be unsafe for visitors to walk this road, particularly if pushing a pram.
- It is unfortunate that this would lead to the loss of historic agricultural land. The main property at Heronsfield House also has an agricultural tie, which the applicant's will probably seek to remove.
- Concerns that this will set a precedent for further expansion of the business, if approved, with additional harm caused.
- There are already several other glamping and holiday let businesses locally, it is not considered that there is an existing need, as required by Local Plan policy DM22.
- The language used in the Economic Development Officer's economic appraisal doesn't read as in impartial assessment of the proposal. It is contradictory to responses received for other similar development in the area.

- There is a risk to security along the lane with additional visits by non-regular residents.

### Support

- Support for a neighbour willing to invest in a sustainable tourism business, an industry that is a big part of Devon's income, and has been hard hit due to the world wide pandemic.
- The lane is already well used with several residential properties, which may be expected to contain babies and children, along with generating other residential activities. There are also several holdings with animals, and other 24 hour activities, as well as other businesses. These business, industrial, agricultural and domestic uses make this a busy but generally peaceful working environment that would not be significantly affected by a small off gird holiday use.
- It is understood that there are no restrictions or covenants placed on the use of the track, with it being open to continuous use for any reason.

## **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

**The main material considerations in respect of this application are:**

- 1) Principle for development in this location**
- 2) Design and impact on the character and appearance of the surrounding area**
- 3) Highway safety and access**
- 4) Impact on residential amenity**
- 5) Drainage**
- 6) Other issues**

### **1) Principle for development in this location**

The site is located outside of any defined settlement boundary, in an open countryside location where policy S14 of the Mid Devon Local Plan, restricts development to agricultural and other appropriate rural uses, including 'appropriately scaled retail, employment, farm diversification, tourism and leisure related development.

Policy DM22 supports proposals for new or expanded tourism, visitor or leisure facilities within or adjacent to defined settlements. Elsewhere, the nature of the proposed development must justify a countryside location and minimise environmental impacts, avoiding an unacceptable traffic impact on the local road network. Development proposals must;

- a) Respect the character and appearance of the location;
- b) Where appropriate, involve conversion or replacement of existing buildings; and
- c) Demonstrate that the need is not met by existing provision within nearby settlements.

The supporting text to this policy outlines that the justification for the development will be provided through a marketing strategy and business plan to explain how the development will achieve a high quality tourism product that meets demand. Proposals must demonstrate that their benefits outweigh any harm and that they do not cause an unacceptable impact to traffic on the local road network.



In this case, the proposed development comprises the siting of two moveable cabins, one finished with timber cladding, the other with corrugated galvanised steel. These are proposed to be sited within a tree lined valley to the south of a private track and public footpath, serving as a means of access to a mix of residential properties, farmsteads and businesses. A car parking area for two vehicles is proposed within an existing barn that would be accessed from the track, with the proposed holiday units accessed via mown grass paths within the valley.

As the site is not located within or adjacent to a recognised settlement boundary, the proposal is required to justify its countryside location. By way of background, the applicants have lived at the nearby Heronsfield House, which is sited immediately to the north of the application site. They purchased the house and adjoining land over two years ago and have since invested in sustaining and improving the biodiversity of the site, which comprises a variety of grasses, sedges and wildflowers. There are also existing trees and hedges to the site boundaries and alongside the Burn, a river passing through the centre of the site. The applicants were also successful in applying for a Countryside Stewardship Grant, and as a result have planted 5400 trees across 15 acres of land. While the grant has assisted in the initial works on site, the applicants have advised that the ongoing costs of maintaining the site and providing further enhancements will need to be entirely borne by them. The proposed development is intended as a form of rural diversification, allowing the applicants to generate income from the land, allowing them to maintain and invest in the environment, whilst also adding to the local tourist economy.

In respect to seeking to justify how the development will achieve a high quality tourism product, which will benefit local businesses, the environment, communities and visitors in the long-term, as well as fulfilling an unmet need, the applicant has provided information within the submitted design and access statement and detailed business plan and marketing statement to support their case. This outlines that the proposal would comprise a 'back to nature' style glamping in a private and tranquil environment. The units are proposed to have limited internal floor space each with a kitchen, area, double bed and log burner within the main space, and a bathroom with basin, wc and composting toilet. The aim is to target the units at the 35 plus couples market, with space for two adults only, and potentially a baby. A small amenity space will be mown into the adjoining grass, where users will have access to a fire pit and log burning pizza oven. Otherwise the site is intended to be a quiet, peaceful location, where visitors can enjoy the local environment.

Within the submitted business plan and marketing strategy document, the applicants have identified that in recent years there has been a growing trend nationally in respect to short break holidays, with increased opportunities for the provision of alternative 'glamping' style accommodation, which promote low impact and low carbon products and experiences in rural areas, to enhance rural tourism. This is supported by research carried out by Canopy & Stars, a national marketing and booking agent in glamping accommodation, who reference the growing market for this type of holiday accommodation and the expected revenues.

In addition to the national picture, the applicants cite the Mid Devon Tourism Study and Destination Management Plan how the proposed development will support the objectives of these by providing accommodation suited to capitalising on the short break and weekend stays by couples mainly over the age of 35 years old, and without children. The applicant intends to build upon the identified demand for tourism offerings by providing a quiet rural location to enjoy the surrounding countryside.

The applicant has also identified good linkages to local businesses such as the Cadeleigh Arms, and the facilities available at Bickleigh. Whether it will be desirable to visitors, or not, the applicant have noted that there is also a reliable bus service at Bickleigh Bridge, which is less than a mile away and can be accessed by foot. This then has good access to both Tiverton and Exeter, including Exeter St David's train station. The site is well-placed to take advantage of local footpath

that continues to the west of the site, along the track towards Cadeleigh. Additionally, the site is relatively well located in respect to the M5, and other main highway routes with good accessibility to settlements such as Exeter, Tiverton and Taunton. The applicant has also identified good linkages to a variety of rural business in the locality.

The accommodation would be advertised through Canopy and Stars, in addition to possibly via the applicant's own website and on social media. Financial projections indicate that this would be a viable business opportunity.

The proposal and supporting information has also been assessed by the Council's Economic Development Officer, who is supportive of the proposal. They have advised that they have no objections based the business plan and marketing strategy providing a realistic business case with a clear marketing strategy and reasonable financial assumptions. They consider the applicant to have identified a clearly defined market and detailed a tourism offer which is qualitatively different from their competitors locally, thereby fulfilling an as yet unmet demand for this type of accommodation. The Economic Development Officer has also noted that the whole ethos of the development in providing a low-impact, environmentally friendly accommodation, which would allow visitors to connect with the natural world in a beautiful and peaceful setting such as this can only be achieved in a countryside location.

Overall, it is considered that the tourist accommodation is acceptable in principle, and meets the aims and objectives of Local Plan policy DM22 in respect to justifying a countryside location, and demonstrating that the need is not met by existing provision within nearby settlements.

## **2) Design and impact on the character and appearance of the surrounding area**

In addition to the requirements of Local Plan policy DM22 criteria (a) that 'development proposals must respect the character and appearance of the location', Policy DM1 of the Mid Devon Local Plan 2013-2033 requires designs of new development to be of high quality, demonstrating a clear understanding of the characteristics of the site, its wider context and the surrounding area. Development should make a positive contribution to local character, creating visually attractive places that are well integrated with surrounding buildings, streets and landscapes.

Policy S1 of the Local Plan requires good sustainable design that respects local character, heritage, surroundings and materials, creates safe and accessible environments, designs out crime and establishes a strong sense of place. The policy seeks to protect landscapes, visual quality and biodiversity.

The proposal is for two low impact units of accommodation to be sited discreetly within the application site. They would both be well-separated from each other to ensure privacy for occupiers, and would be located to the south side of the river Burn, also to the south of well-established hedge and tree planting. The available screening will ensure that they are not highly visible from public view. It has been suggested that the site will be visible from the eastern part of the access track, and from places on the Cadeleigh to Bickleigh road, however any views will be limited and not to such a degree that the proposed development would be considered to cause significant harm to local landscape character. While the lower parts of the valley are undeveloped, they are closely related to the existing development along the track and public footpath, and would be viewed in the same context as this existing development on occasions. Generally though, the units will be tucked away discreetly where their overall impact will be limited. It is proposed to provide a seating area with access to a fire pit and log fired pizza oven, however these amenity areas are to be limited to approximately 11.25 square metres and will be demarcated by mowing the grass shorter rather than any physical marking or treatment. In protecting the visual amenities of the site and surrounding area in the long-term it is considered reasonable to impose conditions

to ensure that the accommodation provided on site is limited to the units proposed, in the locations indicated, and that no fencing or other means of enclosure are provided within the application site.

It is also considered appropriate to remove permitted development rights for the provision of external lighting to the buildings and on the site, other than that indicated within the submission. In that respect, the lighting proposals are identified within an additional statement from the applicant. In this they identify that the site will be lit by nine low level solar lights only, in four distinct locations. These will be positioned so there is one at the site entrance, two to the bottom of the hill where guests would turn right to the units, two as guests would cross a marshy strip and four on the corners of a concrete bridge that crosses the river. The route will otherwise be marked by mowing a path so it will be obvious to users if they are leaving the path. Additionally, reflective strips are proposed at regular intervals, which would show the way with guests using torches or head lights to be supplied with each unit.

In commenting on the proposal, the County Historic Environment Team, mention that there is little potential for the survival of below ground archaeological remains at the site, however they do note that there is a Scheduled Ancient Monument, in the form of an Iron Age defended settlement about 450 metres to the west of the site, just to the south east of Cadeleigh Court. It is suggested that Historic England be consulted in case they wish to make any comments on the proposed development and the setting of the monument. Due to the presence of this historic feature, consideration will have to be given to the impact that the development will have on the significance of this heritage asset. Paragraph 192 of the NPPF advises that "in determining applications, local planning authorities should take account of:

- a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- c) the desirability of new development making a positive contribution to local character and distinctiveness."

The above requirements in respect to heritage assets are echoed in policy S9 of the Mid Devon Local Plan, which includes the requirement that "development will sustain the distinctive quality, character and diversity of Mid Devon's environmental assets through...the preservation and enhancement of Mid Devon's cultural and historic environment, and the protection of sites, buildings, areas and features of recognised national and local importance, such as listed buildings, conservation areas, scheduled monuments and local heritage assets." Policy DM25 also states that "heritage assets and their setting which are irreplaceable resources accordingly the Council will:

- a) Apply a presumption in favour of preservation in situ in respect of the most important heritage assets
- b) Require development proposals likely to affect heritage assets and their settings, including new buildings, alterations, extensions, changes of use and demolitions, to consider their significance, character, setting and local distinctiveness, and opportunities to enhance them.
- c) Only approve proposals that would be likely to substantially harm heritage assets and their settings if substantial public benefit outweighs that harm or the requirements of the NPPF are met.
- d) 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; and

- e) Require developers to make a proportionate but sympathetic assessment of the impact on setting and thereby the significance of heritage asset(s)”

In assessing the impact of the development, against the aforementioned local and national policy requirements, the proposal is considered to be acceptable. Historic England have chosen not to comment and the County Historic Environment Team have considered the proposal and raised no objections, other than requesting that Historic England be consulted. Noting the distance between the proposed development, and the heritage asset, the limited physical development associated with the proposal, and the lack of concern raised by the appropriate statutory consultees, it is considered that there will be no demonstrable harm to the significance of this heritage asset.

### **3) Highway safety and access**

Policy DM3 of the Local Plan requires development to ensure safe access to the transport network.

The site is accessed along a private track, which joins the main road between Cadeleigh village and Bickleigh. This road is an unnamed classified County 'C' road.

Concerns have been received from the Chairman of Cadeleigh Parish Meeting, and local residents in respect to an increase in traffic using the local road network, and also safety concerns with the use of the private track and junction with the public highway.

Regarding the local road network, it is suggested that there has been a growing increase in traffic movements along what are predominantly narrow rural lanes, as a result of additional development, including tourist accommodation and the increased use of larger vans for food and other deliveries. In relation to the lane, it is advised that this is about 300 metres from the public highway to the application site and is in poor condition, in addition to being single lane with no passing places. It is advised that the junction onto the main road is also sub-standard, with poor visibility. The contributors objecting, are concerned that the additional usage associated with the development will lead to highway safety issues along the track, and at the junction, particularly due to visitors being unfamiliar with the area. It is advised that in considering previous applications along the lane, particularly one in 2005, the Highway Authority objected to an increase in use of the lane, citing substandard nature of the approach roads and the junction.

In this case, the Highway Authority initially advised that the County Standing Advice should be applied, however later provided more detailed comments in response to the concerns raised. In this they refer to the previous comments made, which related to policy TR10 from the now defunct Devon Structure Plan. This however having been removed, is no longer in use, with no direct replacement. The guidance used today is contained within the National Planning Policy Framework (NPPF) and states that *“development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.”* In considering the proposed development, the Highway Officer notes that between 01/01/2016 and 31/12/2020 the number of personal injury collisions reported to the police in this area is one slight in November 2020, which was approximately 100 metres from the junction with the private track leading to the site. Despite the speed limit of the main road being 60 mph, observed speeds are much lower. It is advised that there is space for two cars to pass at the junction with the public highway and the visibility splays are suitable for the access, noting observed speeds. It is therefore considered that the limited number of trips likely to be associated with the proposed development would not generate a severe effect on the Highway, and as such the Highway Authority have no objections to the proposal.

It is acknowledged that these comments relate solely to the impact on the adopted public highway, in which case further consideration needs to be given to the private track. While this is single width of the majority of its length, there are at least two places along the length of the track, not including the junction with the public highway, where the track is wide enough for two vehicles to pass. Noting the relative low usage of the lane, and the low levels of additional traffic likely to be generated as a result of these two holiday cabins, it is not considered that there will be a significant risk to the safety of users of the lane, whether they be the occupiers of the local residences and business along the lane, pedestrians using the footpath, or holiday makers using the proposed accommodation. In comments received from local residents, it has been suggested that neither of these wider sections of track would be suitable for use as passing spaces as they are often used for parking of local vehicles. While some use of these areas for parking was observed on site, the length of the wider sections is such that would be expected to be sufficient width for passing at one of these spaces at least. Notwithstanding this, if two vehicles were to come across each other on the single width section, it is not considered unreasonable that one of the vehicles would be able to reverse safely to one of these wider sections of track nearer the application site, or to the wider area close to the road junction, even if they had to do so for a distance, due to the low usage of the lane, and the insignificant increase in traffic associated with the proposed development. This is the current situation that would be faced by existing users of the lane, with a small increase in traffic not considered to increase the risk significantly.

In addition to the safety implications, it is proposed to provide two parking spaces within an existing building at the entrance to the site. The provision of one parking space for each unit is considered to be acceptable noting the nature of the development proposal.

Overall, it is considered that there is a low risk to users of the private track as a result of the proposed development. Furthermore, the existing access onto the public highway is of sufficient width to enable vehicles to pass without having to carry out an additional manoeuvre on the unnumbered classified County Road. The Highway Authority have also advised that they consider that the additional traffic generated by the proposal would not create any severe impacts on the local highway network. As such, the proposed development is considered to be acceptable from a highway safety point of view, complying with the requirements of policy DM3 of the Mid Devon Local Plan and the relevant highway considerations of the NPPF.

#### **4) Impact on residential amenity**

Local Plan policy DM1 e) states that new development should create *“visually attractive places that are well integrated with surrounding buildings, streets and landscapes, and do not have an unacceptably adverse effect on the privacy and amenity of the proposed or neighbouring properties and uses...”*

Objections have been received from local residents concerned about the ability of the units to overlook nearby properties, and the potential for unacceptable levels of noise disturbance, especially late at night. Concerns have also been raised about smoke generated by the use of log burners, fire pits and pizza ovens associated with the units.

The proposed cabins would be sited approximately 180m and 300 metres from the nearest residential property, not including the applicant's home, respectively. Due to their position on lower ground, which is relatively well-screened, their modest scale and their distance, it is not considered that there would be any adverse impact on residential amenity as a result of overlooking or overshadowing.

In respect to the potential for noise and associated disturbance, concerns are also raised about the nature of the site within a valley, where it is advised that even low levels of noise are able to

travel for some distance. In considering this matter, it is noted that while this is a quiet countryside location, the development is sited in the context of a small group of residential properties. Despite concerns raised, it is not considered that these units would generate types or levels of noise considerably different from the existing nearby residential use. The units are of a small scale designed to attract up to two adults, and potentially one small child, who would wish to enjoy the tranquillity of the site. While it is accepted that the behaviour of certain individuals cannot always be accounted for, the nature of the development is such that large rowdy groups of holidaymakers would not be able to be accommodated on site. The Council's Environmental Protection Officer has been consulted and has raised no objections, noting the context of the site and the low occupancy levels anticipated.

Furthermore, a Site Management Plan has been submitted in support of the application. This includes measures such as not taking group bookings, prohibiting additional visitors, guests being shown their designated parking space and the accommodation on arrival, prohibiting dogs, prohibiting the use of fireworks, requiring that no music or other amplified noise is played outside after 10pm and restrictions on lighting throughout the site.

Overall, considering the small scale nature of the proposed accommodation and the proposed measures for management of the site, included within the submitted Site Management plan, it is considered that the proposal would not cause an unacceptable impact on residential amenity and as such, The proposed development therefore accords with Local Plan policy DM1.

## **5) Drainage**

Local Plan policy DM1 f) states that new development should include *"appropriate drainage including sustainable drainage systems (SuDS), including arrangements for future maintenance, and connection of foul drainage to a mains sewer, where available."*

Local Plan policy DM4 also relates to pollution control, stating that *"applications for development that risks negatively impacting on the quality of the environment through noise, odour, light, air, water, land and other forms of pollution must be accompanied by a pollution impact assessment, where necessary. Development will be permitted where direct, indirect and cumulative effects of pollution will not have an unacceptable impact on health, the natural environment and general amenity."*

The proposed development includes the provision of a soakaway for the disposal of surface water and the provision of a 'compost toilet' for collection of foul waste. The applicant has identified that the particular type of toilet proposed is not a traditional compost or 'earth closet' system as is usually understood by the term but a modern waterless toilet, Swedish manufactured toilet that is specifically designed for off-grid living. The toilet separates urine and solids, with the urine being diverted to the nearby soakaway, along with other 'grey water' from the showers and hand basins, and solids being collected in a sealed container that is accessed from the outside of the cabin. The sealed container is lined with a compostable bag prior to use. Once collected, the applicant proposes to compost the waste. This would be done by placing in a composting bin, where it would then be stored for two years, while a further two bins are filled over this time. After two years, the resulting compost will be safe to use as a composting material for the trees on site.

In response to this, concerns have been raised by the local residents in respect to the potential for contamination of the land and nearby watercourse. The Council's Environmental Protection Officer has also raised concerns about the risk to public health, specifically the personal hygiene of the person emptying the waste. They also note that in terms of foul drainage arrangements, it is first expected that connection should be made to a mains sewer, if available. If not, which is the case here, it is first expected that a package treatment plant is provided, with a septic tank being the

next best option. Earth closets are not included within the drainage hierarchy on the submitted foul drainage assessment form.

Firstly considering the risk of contamination of the land and water, the soakaway is proposed at least 10 metres from the watercourse. Prior to submitting the application, the applicant sought the advice of the Environment Agency in respect to the proposed 'grey water' drainage arrangements, with the water from the showers, hand basins and urine from the toilet to be disposed of via the soakaway. In response to these discussions, the Environment Agency have confirmed that while these discharges would be classified as groundwater activity, the amount that would be discharged from these units would be acceptable, being of a small scale that would qualify for a 'de minimis exclusion' and not require a permit. It is thereafter considered that the levels of 'grey water' being discharged would not be sufficient to lead to any adverse impact on the local water environment. The Environmental Protection Officer does not dispute the Environment Agency advice in this respect.

In respect to solid waste, the applicant advises that World Health Organisation guidance states that such solid waste is safe and pathogen free after 12 months, or less in optimum conditions. By operating a three bin system, the applicant is taking an extra precautionary approach, leaving waste for at least two years before using as composting material. Again, with this precautionary approach, it is not considered that the final disposal of the solid waste would lead to any adverse effects of pollution to public health or to the local water environment.

In considering the concerns of the Environmental Protection Officer, in respect to the impact on personal hygiene, and compliance with the established foul drainage hierarchy, it is acknowledged that there is no nearby mains sewer that could be accessed. Furthermore, the proximity to the watercourse, and difficulty in accessing the site of the two units would make the use of a package treatment plant or septic tank undesirable. The provision of such permanent solutions also goes against the objective of the development in providing a very low impact, off-grid development that is completely reversible in the future.

The comments made in respect to the potential for mixing the waste and the health of those people clearing the waste is noted, however the very specific design of the proposed toilets mean that the waste will be fully sealed and able to be disposed of without risking the personal hygiene of the applicants, who intend to operate the site. It is also noted that the preference of the Environmental Protection Officer would be for toilet facilities to be provided separate from the living accommodation. Again, the design of the facilities would be such that all waste is able to be collected from outside of the unit, without the need for waste to be brought through the internal living accommodation.

While the comments have been considered in detail and further solutions discussed, it is not considered that it would be reasonable to refuse planning permission on the grounds highlighted by the Environmental Protection Officer, based on the small scale nature of the proposal and the inability to provide alternative solutions that would better accord with the expectations of the foul drainage hierarchy. Furthermore, with the impact on the local water environment, and wider public health considered to be acceptable, there are not considered to be any substantial planning policy grounds to justify refusal in these particular circumstances. As such, the proposed drainage arrangements are considered to be acceptable, in accordance with policy DM1 and DM4 of the Local Plan.

## **5) Other issues**

The application is supported by a preliminary ecology appraisal. This identified that there would be a small loss of semi-improved grassland, scrub and immature trees, although these habitats were

advised to be common and widespread throughout the landholding, with their loss considered to be insignificant. No evidence of protected species were noted within the limits of the application site, although it is noted that there are opportunities within the site and surrounding landholding for badgers, bats, otter, dormice, other small mammals, nesting birds, reptiles, common amphibians and invertebrates. Overall, it was concluded that the small scale nature of the proposal, and its siting away from the watercourse would not adversely impact on any protected species potentially found on site. A condition requiring the development to be carried out in accordance with these precautionary measures is suggested. As such, there is no identified harm to local ecology and the scheme appropriately accords with policies S9 and DM1 of the Local Plan.

Concerns have been raised about the disposal of general waste generated from the site. The applicants have confirmed that they propose to collect food waste, which will be composted on site. Bins will also be provided for dry recyclables and general waste, which will be bagged and stored in the existing barn for collection. The applicant has advised that having taken advice from the Council's Trade Waste Officer, they are likely to use the trade waste sack system, which operates in a similar manner to home waste collections, albeit a paid for service.

It is acknowledged that the track that links the application site to the public highway is a private track, under the ownership of occupiers of East Court Barton, a property at the end of the lane, to the north west of Heronsfield House. As a result of this, the applicant is required to serve notice of the application on the owners of the track. This has been done in the correct manner. Notwithstanding this, the owners of the lane have advised that the right of way is limited to domestic, and agricultural use only, and does not include any additional rights of access for business purposes. The owners have advised that any such use would need their permission and this would not be granted. The applicant has disputed this, advising that they have right of access. In support of the proposal, another local landowner, whose land and buildings are accessed along this track has suggested that there are no covenants or restrictions on the lane, with it accessible for continuous use. Notwithstanding these concerns, these are not planning matters and are between the parties to resolve. While this is not ideal, lack of right of access would not be able to be used as ground for refusal. If the applicant does indeed need to gain consent from the owner of the track, this is something that they will be legally required to do, and without this they will not be able to implement any consent, if granted. Nonetheless, this is not a matter that can be considered from a planning perspective. In respect to the legal status of the application, the correct ownership forms have been completed, and appropriate notice served on the owners.

A public footpath runs the length of the private track. The County Council Rights of Way Team have commented on the application advising that the proposal will not affect the public right of way. They do however note that the path is required to be kept open and available during site preparation and construction. Details have been provided of what the applicant is required to do should they need to apply for a temporary closure. An informative will be added to this effect.

## **SUMMARY**

This application for the change of use of agricultural land and siting of two off-grid cabins to provide tourist accommodation is considered to be acceptable and supportable in policy terms. It is considered that the applicant has satisfactorily demonstrated that the proposal would achieve a high quality tourism product that will provide economic benefits to the local area and that may benefit, communities and visitors in the long-term. It is considered, on balance, that sufficient justification has been provided to support the provision of the units in this location. It is not considered that the proposal would have an unacceptable impact on the environment or on nearby heritage assets and the proposal is considered to be suitably designed to respect the character of the locality. The likely additional traffic arising from the holiday use is not considered to be significant and unlikely to result in any significant adverse impacts on the local highway network or



on the safety of the private track used to access the site from the public highway. It is not considered that the proposal would result in any significant adverse impacts on the amenity of neighbouring properties, to public health or to the local water environment. The proposal therefore accords with policies S1, S9, S14, DM1, DM3, DM4, DM5, DM22 and DM25 of the Mid Devon Local Plan 2013-2033, and the aims and objectives of the National Planning Policy Framework.

## CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the approved plans and supporting information listed in the schedule on the decision notice.
3. The accommodation to be provided within the holiday units hereby approved shall be occupied for holiday purposes only, and shall not be occupied as a person's sole, or main, place of residence.
4. A register shall be kept of persons occupying the holiday units hereby approved for holiday purposes, which shall include their name, the address of their main residence and the period(s) of their occupation of the unit for such purposes (i.e. the dates of commencement and the end of each period of occupation), and the said register shall be made available for inspection by an authorised officer of the Local Planning Authority at all reasonable times.
5. The development hereby permitted shall be restricted to no more than two units of holiday accommodation that shall be provided in accordance with the details submitted within the approved plans.
6. Details of foul and surface water drainage provision, shall be implemented in accordance with the details contained within the submitted design and access statement, additional supporting information and approved plans. Such approved drainage scheme shall be installed prior to the development hereby permitted being first occupied and shall thereafter be retained and maintained at all times.
7. The area allocated for parking on the submitted plans shall be kept clear of obstruction and shall not be used other than for the parking of vehicles in connection with the development hereby permitted.
8. No means of external lighting or other external illumination shall be installed on any of the buildings hereby approved or operated on any part of the subject land, other than in accordance with the details of lighting submitted in support of this application, or unless details of such additional new lighting has first been submitted to and approved in writing by the Local Planning Authority. Such approved details, once implemented shall not thereafter be altered without the prior written agreement of the Local Planning Authority.
9. The development hereby permitted shall be carried out in accordance with the recommendations detailed in the submitted *Preliminary Ecological Appraisal* (prepared by Seasons Ecology - dated December 2020) covering measures for the avoidance of harm to on-site habitat, protected species and nesting birds.

10. The holiday accommodation hereby approved shall be operated in adherence with the submitted Site Management Plan (Oak Rivers Site Management Plan), at all times, unless otherwise agreed in writing by the Local Planning Authority.
11. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking and re-enacting that Order with or without modification) no development of the types described in Class [A] of Part [2] of Schedule 2 shall be undertaken on the premises.

## **REASONS FOR CONDITIONS**

1. In accordance with provisions of Section 51 of the Planning and Compulsory Purchase Act 2004
2. For the avoidance of doubt in the interests of proper planning.
3. The site is outside of defined settlement limits in the open countryside, where permanent dwellings with unrestricted occupation would be contrary to adopted planning policy, however the application is considered to be in accordance with policy DM22 of the Mid Devon Local Plan 2013-2033.
4. The site is outside of defined settlement limits in the open countryside, where permanent dwellings with unrestricted occupation would be contrary to adopted planning policy, however the application is considered to be in accordance with policy DM22 of the Mid Devon Local Plan 2013-2033.
5. For the avoidance of doubt as to the extent of the development hereby permitted.
6. To ensure that the site is appropriately drained in the interests of public health, in accordance with policies S9 and DM1 of the Mid Devon Local Plan 2013-2033 and the aims and objectives of the National Planning Policy Framework.
7. In the interests of highway safety, in accordance with policy DM3 of the Mid Devon Local Plan 2013 and the aims and objectives of the National Planning Policy Framework.
8. In the interests of residential amenity and to safeguard the amenities and character of the area and that of any protected species, in accordance with policies S1, S9, DM1 and DM22 of the Mid Devon Local Plan 2013-2033 and the aims and objectives of the National Planning Policy Framework.
9. For the conservation and protection of local habitats, legally protected species and nesting birds, in accordance with policies S9 and DM1 of the Mid Devon Local Plan 2013-2033, the provisions of the National Planning Policy Framework, and to ensure compliance with The Wildlife and Countryside Act 1981 (as amended).
10. In the interests of residential amenity and to safeguard the amenities and character of the area, in accordance with policies S1, S9, DM1 and DM22 of the Mid Devon Local Plan 2013-2033 and the aims and objectives of the National Planning Policy Framework.
11. To ensure that the character and appearance of the locality are protected and to avoid overdevelopment in the interests of local amenity.

## **INFORMATIVES**

The applicant/developer's attention is brought to the comments of the Devon County Council Rights of Way Team, dated 7<sup>th</sup> May 2021. These provide advice and guidance in respect to the applicant/developer's obligations in respect to the operation of the adjoining Public Right of Way. These comments can be viewed on the Council's website.

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. No persons that could be affected by the development have been identified as sharing any protected characteristic.

The Human Rights Act 1998 came into force on 2<sup>nd</sup> 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.

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 carrying out pre-application discussions and further negotiations/discussions during the application process.

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

## APPENDIX 1

### 21/00453/FULL - HERONSFIELD HOUSE, CADELEIGH

#### ECONOMIC APPRAISAL

##### Summary

The applicant's business plan and marketing strategy provide a realistic business case with a clear marketing strategy and reasonable financial assumptions. They have a clearly defined market and have detailed a tourism offer which is qualitatively different from their competitors locally. I therefore have no objections to the proposal from an Economic Development perspective.

<b>Business Proposal</b>	
What is the business proposal?	Two off-grid, low impact mobile cabins which will be marketed to individuals and couples wanting "to connect with the natural world in an environmentally sensitive and sustainable way"
Have they provided a sufficiently detailed business plan and marketing strategy?	The applicants have provided a sound business plan and marketing strategy with good analysis of the market, and reasonable assumptions in their projections.
Is this a realistic and sustainable business proposition?	Yes. The financial projections seem reasonable, although an 85% occupancy in year three may be difficult to achieve.
Is this a 'high-quality tourism product' ( <i>paragraph 4.68</i> )?	Potentially. If they manage to achieve the high standards they set out in their business plan, then this will be a high quality tourism product.
<b>Economic Benefit</b>	
Will the business create any new paid employment?	No new employment is identified in the application
Increased revenue	Yes – projected income in the first year is £13,000 rising to £23,000 in the third year
How will the development benefit the local economy?	This is not addressed in detail in the application

<b>Demonstrating Market Need</b>	
Is there any evidence of demand for this product?	Yes, the business plan provides a good summary of available evidence. Nationally there is increasing demand for short stay, environmentally friendly accommodation, catering for couples wanting a green experience.
What other holiday accommodation is available in the area?	<p>There are a number of other sites in the area providing a glamping experience, but these are mainly targeted at the family market – Exe Valley Glamping (4 units) and Valleyside Escapes (3 units) in Bickleigh, offer large safari tents (sleeping 6). Orchard Retreats offers 3 yurts (sleeping 4). Upcott Roundhouse sleeps 10!</p> <p>There are shepherd's huts at West Farleigh, Cheriton Fitzpaine, Binnerleigh Farm, Kennerleigh and at Stockleigh Pomeroy catering for couples, but these are in a more domestic, less environmentally raw settings.</p>
Is there anything distinctive about the proposal, which will make it more attractive in the market, or complement the local tourism offer? (e.g. in terms of quality, location, facilities etc.)	<p>Compared to other holiday accommodation locally, this development will be distinctive in its high environmental standards and the extent of the 'back to nature' experience it offers.</p> <p>They propose bespoke construction using environmentally friendly materials, off-grid services, and minimal landscaping to retain the natural feel of the location and its relation to the river, while offering a luxury experience in finish and feel.</p>
Have they demonstrated a qualitative or quantitative gap in the market?	The proposed development will provide an offer which is qualitatively different than its competitors and will therefore meet a gap in the market.

Does the proposed development justify a countryside location?	The whole ethos of this development will be to provide a low-impact, environmentally friendly accommodation which will allow visitors to connect with the natural world in a beautiful and peaceful natural setting. This could only be achieved in a countryside location.

### Assessment Principles

“The right development in the right location”

There is a presumption in favour economic growth & legitimate competition – cf. DM22 *Proposals for new or expanded tourism, visitor or leisure facilities will be supported within or adjacent to defined settlements.*

However,

Proposals for tourism and leisure developments ‘in the countryside’ must demonstrate:

- The *economic* benefits outweigh any potential adverse impacts (*on the character and amenity of the local area*)
- They meet an **identified need**, which is not met by **existing provision**
- The nature of the proposed development justifies a countryside location

### Key Questions

- Is this a realistic and sustainable business proposal?
  - Is expected income and expenditure realistic?
  - How are they going to manage and market the property?
- Have they demonstrated a market need?
  - Have they provided evidence of a qualitative or quantitative gap in the market?
  - *Do they demonstrate an understanding of local / national market trends?*
- Have they demonstrated a gap in provision in the local area?
  - What other holiday accommodation is available in the area? – Do they demonstrate a clear understanding of the competition?
  - Is there something distinctive about their offer within the market?
  - How will the development complement the local tourism offer?
- Will the development create a net economic benefit?\*
- Is this proposal a diversification from an existing business that will make the main business more sustainable?
- Does the development justify a countryside location?
  - Is the development integrated visually or environmentally into the countryside
  - Does the development engage visitors in the countryside and/or educate them about it
  - Proximity to a specific feature or amenity

\*Net Economic Benefit (growth – displacement)

Growth	Displacement
New jobs created (direct / indirect)	
Increased revenue	
Potential for market growth? <ul style="list-style-type: none"> <li>○ Increased overall number of visitors</li> <li>○ Widen the type of visitors</li> </ul>	Not just taken visitors from another provider
Increased visitor spend	
Benefits to the local economy <ul style="list-style-type: none"> <li>○ Increased spend in local shops</li> <li>○ Links to specific attractions</li> </ul>	

## Planning Policy

NPPF, paragraph 83

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

## Local Plan Policy S14 - Countryside

Development outside the settlements defined by Policies S10-S13 will preserve and where possible enhance the character, appearance and biodiversity of the countryside while promoting sustainable diversification of the rural economy. Detailed development management policies will permit agricultural and other appropriate rural uses, subject to the following criteria:

- a) Affordable and low cost housing to meet local needs, gypsy and traveller accommodation, residential conversion of appropriate existing buildings, replacement dwellings, housing essential to accommodate a rural worker and accommodation ancillary to a dwelling;
- b) Appropriately scaled retail, employment, farm diversification, tourism and leisure related development (including appropriate conversion of existing buildings);

- c) Appropriately scaled and designed extensions and other physical alterations to existing buildings;
- d) Agricultural and equestrian development;
- e) Community facilities, such as educational facilities, buildings associated with public open space, transportation and infrastructure proposals (including green infrastructure); and
- f) Renewable energy and telecommunications.

#### DM22 – Tourism and Leisure Development

Proposals for new or expanded tourism, visitor or leisure facilities will be supported within or adjacent to defined settlements.

Elsewhere, the nature of the proposed development must justify a countryside location and minimise environmental impacts, avoiding an unacceptable traffic impact on the local road network. Development proposals must:

- a) Respect the character and appearance of the location;*
- b) Where possible, involve conversion or replacement of existing buildings; and*
- c) Demonstrate that the need is not met by existing provision within nearby settlements.*

Paragraph 4.68 of the policy supporting text states:

“Applications for tourism and leisure development in the countryside will need to be justified by the applicant. The Council will require a marketing strategy and business plan to be submitted, to explain how the development will achieve a high quality tourism product that meets demand. Proposals must demonstrate that their benefits outweigh any harm and that they do not cause an unacceptable impact to traffic on the local road network. Tourism and leisure development should benefit local businesses, the environment, communities and visitors in the long-term, so the Council will seek the right form of development in the right location, with evidence that the need is not already being met by existing provision. In demonstrating unmet need for tourism proposals outside settlement limits, applicants should have regard to the Council’s Tourism Study, available on the Mid Devon District Council website.”



Application No. 21/00276/MFUL

Grid Ref: 283067 : 102459

Applicant: Mr J Denno

Location: Land at NGR 283084 102432 (Fanny's Lane)  
Sandford  
Devon

Proposal: Erection of 13 dwellings to include associated landscaping, public open space and infrastructure

Date Valid: 1st April 2021



## **APPLICATION NO: 21/00276/MFUL**

### **MEMBER CALL-IN**

Members of the Planning Committee held on 26 May 2021 agreed that 21/00276/MFUL for the erection of 13 dwelling at Land at NGR 283084 102432 (Fanny's Lane) Sandford, Devon, be brought before the committee for determination and that a site visit take place.

### **RECOMMENDATION**

Grant permission subject to conditions and the signing of a S106 agreement to secure the following:

1. Three affordable houses in accordance with a scheme to be agreed with the Local Planning Authority.
2. A financial contribution of £44,340 towards funding improvements which seek to address air quality within the Crediton Air Quality Management Area in line with Policies S12 (Crediton) and CRE11 (Crediton Infrastructure) and the relevant guidance in the supporting SPD on the provision and funding of Air Quality mitigation, whereby a financial contribution of £ 4,434.00 would be required for each new unrestricted residential unit created. A project has been allocated for provision and improvement of footpath and cycle links into and within the designated Air Quality Management Area.
3. A financial contribution of £5768 towards public open space provision in the Parish of Sandford in line with the requirements of Policy S5 (Public Open Space). This figure takes into account the public open space to be provided on site which has been subtracted from the off site financial contribution. The project which has been allocated for Improvements to Play Area including new adult exercise equipment at Sandford Play Area in Sandford.
4. Provision of on site public open space and details of Management Company to maintain the public open space in perpetuity.

### **PROPOSED DEVELOPMENT**

The applicant seeks planning permission for the erection of 13 dwellings to include associated landscaping, public open space and infrastructure on land at NGR 283084 102432 (Fanny's Lane), Sandford. The development comprises 13 dwellings of which two would be bungalows with the rest being two storey dwellings and the proposal includes a mix of 2, 3 and 4 bed homes. Three of the dwellings would be affordable dwellings (plots 1 - 3).

This site comprises an open field, bounded along the northwest corner by the residential properties along Creedy View which were constructed a few years ago. Further to the north is the village hall and its car park and to the west of the site is Park House (a listed building) and its grounds (which are also located in the Conservation Area for Sandford) with the east of the site being bounded by properties in Brady Close. Sandford Footpath no.23 runs west to east across the lower part of the site, with further residential properties to the south located at a lower level due to the ground sloping down from north to south.

The site is currently located inside of the settlement boundary for the village of Sandford where the principle of residential development is acceptable subject to the development being designed to

meet other adopted policy requirements. The site is outlined as an allocated housing site within the Mid Devon Local Plan 2013-2033 under Policy SA1 - Fanny's Lane, Sandford. This policy states:

*A site of 1.5 hectares at Fanny's Lane, Sandford is allocated for residential development, subject to the following:*

- a) 27 dwellings with 30% affordable housing;*
- b) Buffer strip of planting or open space to protect the setting of the listed Park House and Sandford Conservation area; and*
- c) Careful design and landscaping to protect views towards Sandford and the historic core around St Swithun's Church.*

## **APPLICANT'S SUPPORTING INFORMATION**

Plans, Planning Statement, Design and Access Statement, Ecological Appraisal, Arboricultural Report Flood Risk Assessment, Transport Statement, Waste Audit Statement, Heritage Statement.

## **RELEVANT PLANNING HISTORY**

09/01870/MFUL – PERMIT date 17th August 2010

A mixed development of 13 open market eco-houses and 6 affordable eco-houses; new access and estate road; additional car parking facilities for the Village Hall; closure of the existing Parish Hall Car Park entrance; provision of a children's play area for the Parish Hall; highway improvements to Fanny's Lane; footpath link to Snows and Meadowside Road (Revised Scheme)

13/00498/MFUL - PERMIT date 13th February 2014

A mixed development of 12 open market houses and 7 affordable eco-houses; new access and estate road; additional car parking facilities for the Village Hall; closure of the existing Parish Hall Car Park entrance; provision of a children's play area for the Parish Hall; highway improvements to Fanny's Lane; footpath link to Snows and Meadowside Road; retention and renovation and use for car parking (Revised Scheme)

13/00525/MFUL - DWD date 6th April 2017

Application to replace extant planning permission 09/01870/MFUL (to extend time limit). A mixed development of 13 open market eco-houses and 6 affordable eco-houses; new access and estate road; additional car parking facilities for the Village Hall; closure of the existing Parish Hall Car Park entrance; provision of a children's play area for the Parish Hall; highway improvements to Fanny's Lane; footpath link to Snows and Meadowside Road (Revised Scheme)

14/00339/LBC - PERMIT date 20th May 2014

Listed Building Consent for repairs to stone wall and infilling of opening; repairs and re-rendering of block wall to include infill between piers; demolition and replacement of brick wall and repairs to estate fence

## **DEVELOPMENT PLAN POLICIES**

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

- S1 - Sustainable development priorities
- S2 - Amount and distribution of development
- S3 - Meeting housing needs
- S5 - Public open space
- S8 - Infrastructure
- S9 - Environment

S13 - Villages  
DM1 - High quality design  
DM3 – Air Quality and Transport  
DM4 - Pollution  
DM5 - Parking  
DM25 - Development affecting heritage assets  
DM26 - Green infrastructure in major development

Policy SA1 - Fanny's Lane, Sandford. This policy states:

*A site of 1.5 hectares at Fanny's Lane, Sandford is allocated for residential development, subject to the following:*

- a) 27 dwellings with 30% affordable housing;*
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- c) Careful design and landscaping to protect views towards Sandford and the historic core around St Swithun's Church.*

## **CONSULTATIONS**

### **Sandford Parish Council** – 8th June 2021

Following a Public Meeting on 20th May 2021, and Parish Council discussions regarding this planning application, we would like to submit the following comments.

1. Whilst the Parish Council do not oppose the application we, and a high percentage of Parishioners attending the Public Meeting, do wonder whether the right type of homes are being proposed? Does Sandford really need more Executive type homes?  
There is clearly an absence of "affordable" properties in Sandford. This means many younger residents, as well as older residents who want to downsize, are forced to move into Crediton to find "affordable" properties. Any attempts for moving back to their home village are thwarted by the lack of "affordable" Homes. Many residents have told us they were wanting the number of dwellings reduced to the 8 described in the local plan. Whilst MDDC say 'they' must make best use of the land available, the need in Sandford is for cheaper dwellings rather than more executive style houses.
2. There is a huge concern, from the residents of Meadowside, that back on to the site, that their properties will be flooded due to the location of the proposed attenuation tanks/ponds. We feel that these are NOT acceptable in the location current shown on the plans. If the ponds do become the preferred option we would request that a trench is dug (filled with aggregate) with a drain pipe to take away the excess water in the direction of the sewage works.
3. The consensus from the Parish is that Zinc roofs are not suitable and they should match the current Creedy View development roofs.
4. We are concerned that the present Creedy View 1 attenuation tanks have yet to be adopted and feel that this is necessary before any Construction works begins on Creedy View 2.
5. Any conveyance of surplus land to a Sandford organisation needs to be at no legal cost to the recipient.

6. The future care of the Ha Ha needs to be attended to by the Management Committee, and not Sandford Parish Council or Sandford Millennium Green. Alternatively the responsibility lies with the owner of the property who's land this falls on. The Management Committee will need to have access for repairs etc.
7. No soil or spoil should be deposited below the Furlongs footpath as this could in time cause a potential hazard of it slipping down the bank onto the homes in Meadowside.
8. The Management Committee needs to be set up and running within 6 months of the first properties being occupied.
9. The monies allocated to the Clean Air Fund should be used toward the creation of the proposed Footpath and Cycle Way connecting Sandford with Pedlars Pool. Also with the path leading to Meadowside and Snows.
10. The impact of additional traffic on the already busy Fanny's Lane needs to be addressed and resolved. All construction vehicles need to access the site from the Upton Hellions end of Fanny's Lane rather than travelling through the centre of the village. Conditions also need to be put in place that deliveries do not take place at busy times of the day including when children are arriving at and leaving Sandford School.
11. It is recommended that sufficient fast electric car re charging points are included within the development as this need will become more and more a priority in future. We also suggest a car recharging point connected to the current Creedy View 1 car park.

#### **Highway Authority** – 22nd April 2021

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 Site Layout Plan shows connection into the Public Right of Way 23 and also footway connections in to Creedy View. There is access to the local bus stop in the Square which is within the Manual for Streets Guidance distance. The Village of Sandford does have facilities within the village of a School and Community Store, which are all within walking distance.

The Transport Statement shows the parking provision for each property meets with the Mid Devon Local Plan Policy DM 5 although no mention of electric charging points. This is a site also allocated within this Local Plan SA1 although only 8 dwellings are allocated.  
The number of trips that 13 dwellings will create at peak times during the day would equate to one vehicle per minute extra on the highway network, which is an estimated figure taken from TRICS database which is a nationally accepted database. This number would not have a severe impact on the highway network.

The Highway Authority has no objection to the proposed development, if 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, may wish to recommend conditions on any grant of planning 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. In accordance with details that shall previously have been submitted to, and approved by, the Local Planning Authority, provision shall be made within the site for the disposal of surface water so that none drains on to any County Highway

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

### **DCC Flood & Coastal Risk Management Team** – 23rd April 2012

We are pleased to see that two above ground basins are proposed to attenuate the runoff at this site. However, the applicant should rerun the attenuation based on FEH data rather than FSR which we no longer accept as it is out of date.

The FRA mentions how infiltration testing has yet to be undertaken by a Geotechnical Investigation and Contamination Assessment Report AB/SR/20156/GICAR details the results of infiltration testing. It is recommended that the FRA is updated to reflect this.

The applicant should consider the use of a cut off drain or similar on the eastern boundary, within the area of public open space, to reduce the risk of exceedance flows flowing towards properties on Brady Close.

We would be happy to provide another substantive review if additional information is submitted to the local planning authority.

**DCC Flood & Coastal Risk Management Team** – 13th July 2021

**Recommendation:**

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

- No development hereby permitted shall commence until the following information has been submitted to and approved in writing by the Local Planning Authority:
    - (a) A detailed drainage design based upon the approved Flood Risk Assessment Weaver's Way Sandford 32002-BPC-ZZ-XX-RP-C-0000
    - (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 plan indicating how exceedance flows will be safely managed at the site.
    - (e) Evidence there is agreement in principle from South West Water
- 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/00276/2021, dated 21/04/21, the applicant has submitted additional information in relation to the surface water drainage aspects of the above planning application, for which I am grateful.

- Flood Risk Assessment, Weavers Way, Sandford, 32002-BPC-ZZ-XX-RP-C-0000

The applicant has proposed a feasible surface water drainage strategy in line with our SuDS for Devon Guidance (2017). The strategy comprises two attenuation basins which will provide storage of additional runoff, treatment of the runoff as well as biodiversity and amenity benefits. The basins have been designed with a freeboard of 300 mm. The basins have been designed to be cascading in nature with two flow controls restricting rates to the lowest feasible discharge rate. Furthermore, the applicant has proposed cut of trenches along the southern and eastern boundaries.

**Natural England** – 19th April 2021

Natural England has no comments to make on this application.

**Public Health** – 20th April 2021

Contaminated Land No concerns once constructed, but in view of the close proximity of the sewage pumping station and the potential for unforeseen contamination elsewhere on the site we would recommend that the 'unexpected contamination' condition is included on any approval.

13.04.21

Air Quality No concerns 13.04.21

Environmental Permitting No objection to this proposal 01.04.21

Drainage No concerns 13.04.21

Noise & other nuisances No concerns once constructed although the standard CEMP condition should be included on any approval. 13.04.21

Housing Standards House types C1 and C2 ' the bedrooms are inner rooms with no primary safe means of escape in the event of a fire. Recommend that a proper hall is created at the foot of the stairs with access directly out of the property as the stairs currently descend directly to the living room which is considered to be a high risk area. 9/4/21

**Case officer note** – please be aware that planning permission is not required for internal changes to dwellings. Any matters regards fire would be picked up via building control which is a separate matter to planning.

Licensing No comments 06.04.21

Food Hygiene No comments 01.04.21

Private Water Supplies If a private supply is to be used by more than one property or has a commercial function, The Private Water Supply (England) Regulations 2016 as amended will apply. A risk assessment and sampling regime will be necessary. The supply must not be used until the Local Authority (Mid Devon District Council) is satisfied that the supply does not constitute a potential danger to human health, including single domestic use.

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

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

IF MAINS WATER IS TO BE USED, WOULD HAVE NO COMMENT. 01.04.21

Health and Safety No comments 01.04.21

**Waste Planning Authority** – 9th April 2021

I am contacting you in the County Council's role as the Waste Planning Authority with regard to the above planning application.

Within the submitted Waste Audit Statement, the applicant has made a good attempt to consider the waste issues posed on this development by explaining some of the targets for reuse, recycling, and recovery of waste, in particular, the reuse of 50% of the soil and topsoil for on-site landscaping which in turn aims to divert waste away from landfill and is in accordance with policy W4 of the Devon Waste Plan.

However, the following points need to be addressed in this statement:

○ Explain the method of auditing the waste. This should include a monitoring scheme and corrective measures if failure to meet targets occurs ;

○ Predict the amount of waste that will be generated once the development is occupied. (in tonnes); and



O Additional information on the reuse, recycling and recovery of waste during the construction phase. We acknowledge that, as stated in section 3.5 of this statement, this will be covered by the CEMP in due course.

We would expect the information stated above to be provided at this stage of the application. As such our preference is for the statement to be updated to include this information. Alternatively, if the applicant does not wish to do this at this stage, we request that a condition is attached to any consent to require the submission of a more detailed statement in advance of the commencement of development.

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>

#### **DCC Education** – 12th April 2021

The proposed increase of 13 family-type dwellings, will generate an additional 3.25 primary pupils and 1.95 secondary pupils. There is currently capacity at the designated primary school (Sandford) and secondary school (QE) for the number of pupils likely to be generated by the proposed development. Therefore a contribution towards education infrastructure will not be sought for this development. In addition, the development is within statutory walking distance of both schools, therefore an education transport contribution will also not be sought.

#### **MDDC Housing Options Manager** - 9th April 2021

Please note the current demand for those living or working in the Parish of Sandford

Sandford	Housing Needs Requirement Size				
Housing Type	1BH	2BH	3BH	4BH	5BH
General Needs	0	0	0	0	0
Step Free	1	0	1	0	0
Maximum of 3 Steps	1	0	0	0	0
Wheelchair Accessible	0	0	0	0	0
Grand Total	2	0	1	0	0

#### **South West Water** – 14th April 2021

Please find enclosed a plan showing the approximate location of a public 375mm surface water sewer and a public 150mm foul sewer in the vicinity. Please note that no development will be permitted within 3 metres of the sewer, and ground cover should not be substantially altered.

Should the development encroach on the 3 metre easement, the sewer will need to be diverted at the expense of the applicant.

Further information regarding the options to divert a public sewer can be found on our website:

[www.southwestwater.co.uk/developer-services/sewer-services-and-connections/diversion-of-public-sewers/](http://www.southwestwater.co.uk/developer-services/sewer-services-and-connections/diversion-of-public-sewers/)

#### Clean Potable Water

South West Water is able to provide clean potable water services from the existing public water main for the above proposal. The practical point of connection will be determined by the diameter of the connecting pipework being no larger than the diameter of the company's existing network.

#### Foul Sewerage Services

South West Water is able to provide foul sewerage services from the existing public foul or combined sewer in the vicinity of the site. The practical point of connection will be determined by the diameter of the connecting pipework being no larger than the diameter of the company's existing network.

The applicant can apply to South West Water for clarification of the point of connection for either clean potable water services and/or foul sewerage services. For more information and to download the application form, please visit our website:

[www.southwestwater.co.uk/developers](http://www.southwestwater.co.uk/developers)

#### Surface Water Services

The applicant should demonstrate to your LPA that its prospective surface run-off will discharge as high up the hierarchy of drainage options as is reasonably practicable (with evidence that the Run-off Destination Hierarchy has been addressed, and reasoning as to why any preferred disposal route is not reasonably practicable):

1. Discharge into the ground (infiltration); or where not reasonably practicable,
2. Discharge to a surface waterbody; or where not reasonably practicable,
3. Discharge to a surface water sewer, highway drain, or another drainage system; or where not reasonably practicable,
4. Discharge to a combined sewer. (Subject to Sewerage Undertaker carrying out capacity evaluation)

Having reviewed the applicant's current information as to proposed surface water disposal for its development, please note that method proposed to discharge into the ground (infiltration) is acceptable and meets with the Run-off Destination Hierarchy.

I trust this provides confirmation of our requirements, however should you have any questions or queries, please contact the Planning Team on 01392 442836 or via email: [DeveloperServicesPlanning@southwestwater.co.uk](mailto:DeveloperServicesPlanning@southwestwater.co.uk).

**Conservation Officer** – 28<sup>th</sup> April 2021

I cannot agree that the location of Plot 8 is mitigated by a bungalow and existing/enhanced tree planting and I wish it to be noted I maintain my objection to Plot 8 which is harmful to the setting of the listed building and the edge of the Conservation Area.

The historic orientation of Park House its main entrance and principle south elevation and the openness of wide views across the valley to the south and east with Parkland appearance are a significant part of its setting. The bungalow set within a few metres of the boundary and in front of the building line of the south /east elevation would be harmful to the openness of views and to this established character. The Plot 8 can be easily accommodated in the land to the opposite side of the new access road and would remove this harm. I ask that you reconsider this opinion. In

addition it looks awkward and offers a poor end stop in the Street Scene images which only adds to the harm to the setting of the Listed Building (see Historic England advice GPA3) and this poor design compromise of a bungalow accentuates its poor siting.

The applicant has indicated they have followed Historic England Advice GPA3 • Steps 1: identify which heritage assets and their settings are affected.

- Step 2: assess the degree to which these settings make a contribution to the significance of the heritage asset(s) or allow the significance to be appreciated.
- Step 3: assess the effects of the proposed development, whether beneficial or harmful, on that significance or on the ability to appreciate it.
- Step 4: explore ways to maximise enhancement and avoid or minimise harm.

The applicants Heritage Statement has not undertaken Step 2 and only in a final comment in its justification section does it refer to the south elevation. It offers no understanding of the setting and significance of the South elevation with the main entrance to this principle elevation or the significant views to the south and east from this entrance to the house. Or the importance of to this orientation to the south and east with the continuation of the Ha Ha feature across the lower part of the application site across from Park House gardens. There is no mention of how this setting makes a contribution to the significance of Park House and that this needs to be protected under NPPF 193 'Great Weight should be given to the assets conservation' and 194 Any Harm to or loss of the significance of a designated heritage asset (from its alterations or destruction or from development within its setting) should require clear and convincing justification.

The rest of the Heritage Statement is weak and does not address the required GPA 3 Steps or provide understating of the setting and its significance. The Heritage Statement is a simple exercise in supporting an already conceived layout and the poor siting of Plot 8 with a poorly designed bungalow.

#### Extracts from the Heritage Statement

6.27 The image below is an aerial photograph from 2020 and the dwellings circled red are situated at the western end of the Creedy View development. Immediately to the south is Park House. As will be observed on site, the flank elevations of two story properties were allowed to immediately abut the rear boundary of this grade II listed building. This arrangement has enclosed Park House on its very open northern boundary and, in our view, has had far more impact on the setting of Park House than the proposals which are being considered here.

This sentence comes without assessment or apparent understanding of significance and setting, orientation and status of the respective elevations. The north elevation with outbuildings is clearly the least significant elevation and orientation and has far less impact on significance to the setting of Park House than this current proposal that harms directly the principle and most significant south elevation and its setting and views to the south and east.

#### The Heritage Statement continues

6.30 Furthermore, due to the presence of the "ha ha" feature to the south of plot 8, a revised open space arrangement that left a 'corridor' running north/south alongside the boundary with Park House would not provide useable space or an accessible route due to the significant change in ground levels in this location. Therefore, the inclusion of open space in the north western corner of the site with access from the Creedy View development to the Weaver's Way scheme, with a bungalow sited to the south of this open space area strikes the most appropriate balance in this location. The overall solution proposed provides better permeability through the new development whilst offering an appropriate solution to heritage issues.

I walked the site again yesterday the level changes are relatively consistent across the site and the Ha Ha that runs below the site is part of the original grounds and formal setting of Park House that enables the open views to the south and east of the House. This open aspect to South and East provides and supports its status - and is a significant part of its setting that are harmed by the inclusion of a poor design bungalow as proposed.

6.32 Finally, we would suggest that development to the east of Park House is entirely appropriate given the orientation of the main facades of the listed building are to the north and south. (Not North - South and East) - but I agree with the comment 'The southern aspect of the property provides the most dramatic outlook and there is clearly a tangible setting to this elevation.' They have indicated this at the end this should form part of Step 2 the assessment of significance.

The Heritage Statement is poor and does not provide the required understating of Significance of Park House or its setting and does not therefore enable a proper understanding of the proposal and the harm to the setting. It is not fit for purpose, does not follow the Steps in GPA 3 and does not provide a justification for Plot 8 bungalow.

For these reasons I maintain my strong objection to Plot 8 in this location and this should be relocated or refused.

On a design matter while the Small terrace Type C need to consider enclosed porch as per nearby development at Newton St Cyres (see phot attached) as this would enhance a currently very ordinary small dwelling type and help to define and ground the small dwelling.

The stone quality and coursing is important and should follow local traditions - we can condition this.

Similarly the Render should not be the smooth finish which collects dirt and often weathers poorly and I would suggest alternatives either a roughcast render giving a texture to the render or painted brickwork again offering a texture.

**Conservation Officer** – 9<sup>th</sup> August 2021

I walked the site and have read the additional Heritage Statement.

The historic Tithe mapping 1840 and the 1st edition OS mapping from 1880's show that the footpath route appears to have been diverted to run along a ha ha feature between these dates. This ha ha has a dry stone Devon bank to the north edge and this extends about 50 m into the adjoining field (the site) the other change during this mid-19th century was the introduction of a Lodge house replacing a former barn to the entrance off the lane due west of the front of Park House. This formalises this eastward progression of the carriage way from the property access to the House entrance in front of the porch. This progression is the approach to the house and predisposes a direct East view from the Lodge to the house and beyond as you approach the house and its central door way and porch.

In addition the ha ha feature enabled and reinforced the planned view from the front of house both south and southeast toward the Creedy Park parkland rising to the south beyond the valley.

In my view this direct formalising to the approach from west to east, the extension of the ha ha walled bank at least 50 m beyond the immediate garden area to the adjoining land to the east and the views to south and south east from the house reinforces the significance of the adjoining land especially this immediate 50 m or so of this adjoining field as part of the planned landscape and

formal setting of Park House. I therefore do not accept the view expressed in the Heritage Statement

*'The extension of the ha ha due east into what was pasture at the time of its creation is an accident of land levels'*

I therefore retain my strong objection to the siting of any dwelling in this location to the north of the ha ha bank where the current bungalow is proposed being harmful to the understanding and experience of the formal setting of grade II listed Park House.

As previously indicated the proposed dwelling in this location can be re-sited to the north and this land bounded by the Park House boundary to the west and the additional section of ha ha walled bank to the south should form the open space for the development.

## REPRESENTATIONS

28 letters of representation were received, 27 of which were objection and the other was one of a general comment and a petition with 99 names addresses and signatures of residents of Sandford Village opposing the development was received. The grounds of objection are summarised as follows:

- 1 or 2 bed housing would help younger residents move out from home and get on the property ladder (especially affordable housing). This is important to create a vibrant community with a mix of people. However if smaller houses were to come forward, we may need to accept more than 8 properties being built.
- The development could have an impact on wildlife.
- Total number of houses do not match the remaining 8 allocated for MDDC within site SA1.
- 13 dwellings represents a 62% increase on Policy SA1. This over allocation is unjustifiable taking into account the Local Plan Policy S13 Rural Areas, which covers Sandford Parish.
- There was no community involvement prior to this application being submitted that indicated the site would be over developed beyond its current agreement.
- Plot 7 is of particular contention due to loss of light and excessive shadowing with further concern raised when trying to assess the impact through site drawings provided.
- Site section Dwg 1445/P201 revB section A-A has been taken through Creedy View No.3, not No.2 which is the house more directly adjacent to the proposal but more importantly is on a lower elevation. Drawings do not demonstrate the impact of light and shadowing, which we would expect to be provided with given the close proximity.
- The site does not meet NPPF sustainability criteria, specifically local amenities, infrastructure and employment. The developer acknowledging the new residents will likely commute via car further adding to traffic issues associated with school drop-off and pickup, combined with a restricted visibility T junction between Fanny's Lane and Church Street.
- The site clearly cannot accommodate additional housing and the proposals do not respect the locally distinct character of the village, as this is not an urban site.
- The approved development of over 250 houses at Creedy Bridge provides scope for a huge number of improvements to the areas social fabric and has a suitable wider road network. Therefore this development is not justified.
- With respect to Traffic and Accidents and the National Planning Policy Framework Section 9. Promoting sustainable transport, the application does not have a sufficient response and should be refused.
- The application submitted does not identify the significant impacts or mitigate increase in traffic on Fannys Lane and subsequent danger to pedestrians and cyclists, particularly children accessing the school.

- It builds on a large part of the only green open space in the upper part of the village.
- There are questions about sewage disposal which have not been satisfactorily answered.
- Hard surfaces will surely increase the amount of run-off in heavy rain, reducing the capacity of the field to absorb water which seems very likely to result in problems for the residents of properties below the field on Meadowside Road.
- The footpath from Meadowside up past the village hall towards the school has been used for generations. Diverting it seems wrong.
- There doesn't seem to be sufficient provision for affordable housing.
- Bio-diversity will be further reduced through the loss of habitat, including protected species.
- The development makes a gesture to the environment and sustainability by specifying air source heat pumps but we shouldn't be considering new build properties that are not equipped with solar panels particularly given the orientation of this site.
- The proposed development pushes green space to the edges and may not be open to all.
- Any development should include green space as a central corridor through the development linking Creedy View and the footpath at the bottom of the field.
- Although privately owned because it has not been farmed over the years the field has become an informal village space and a vital amenity for health and well-being. Most roads are simply too dangerous to walk along safely due to the absence of pavements and footways.
- There is a need for additional housing in the village but more thought needs to be given to location, density, affordability, and environmental sustainability.
- My back gate is a few metres from this site and I use this space 2 or 3 times a day to walk and enjoy a very special view of the Creedy Valley and the Raddon Hills. There is no other public space to enjoy this elevated view in Sandford.
- Fanny's Lane is a single track lane already heavily congested, the east end of which ends in a very steep, sharp and narrow junction. The route up Rose and Crown hill is under even more pressure, and is regularly jammed /closed due to traffic congestion and incidents at the tight corner with Sandford Square.
- This site is 2.5 miles from Crediton town centre, and station, and has very limited bus service.
- The houses should be adhering to a much higher standard of low carbon impact.
- Can the council please insist paths are not concreted but permeable, and that they are not lit up? Light pollution in the UK is a growing threat to the health and well-being of people and wildlife.
- This proposal has been presented to the community at a time when so many restrictions are still in place, thus limiting the chances of community meetings.
- There are families, with children at the primary school, have given their time to community groups such as cubs, scouts and the school. They have had to move into Crediton to find a suitable and affordable home for their family. These are the people Sandford should be retaining within the village.
- This field provides an important, safe and accessible space for residents of Sandford village and provides an alternative green space to the Sandford Millennium Green which is at the bottom of a very steep hill.
- Rather than in-filling the green spaces it would be much more beneficial to the future of the village if this was retained as a green area for residents to use.
- With the village hall beside it, the potential to relocate the village stores to this area and car parking, this area could be a central hub to welcome residents and visitors.
- The building process would involve heavy plant and transport coming in and out of the small lanes within the village. Recently there have been a number of accidents/incidents involving lorries and large vehicles within the village.
- The plans for sewerage are woefully inadequate. Raw sewage has surfaced near to the children's playground due to the inadequacies of the current sewerage system.

- There will be an increase in traffic and the application does not give priority to cycle movements or identify the additional risks to school children accessing Fannys lane.
- The Application does not address the needs of people with limited mobility.
- The application is not minimising the scope for conflicts between vehicles, cyclists and pedestrians accessing Fannys lane or Sandford Village.
- The developers submitted Transport Statement (Revision B) statistics do not correspond with the reality of recent collision data.
- The proposal should be refused due to this increase in risk to our communities' young children.
- The junction of Fannys Lane onto church street is blind so represents a highway danger.
- In terms of Drainage and Flood Risk, the development is at odds with the NPPF.
- The Developer has produced the Appendices regarding drainage which is widely ambiguous and unclear. This is unacceptable for a major scheme and should be refused.
- A geological fault is mapped to cross the site. Although no evidence of this was observed in this investigation, geological faults can result in abrupt changes in ground conditions, locally weaker ground conditions and/ or near surface groundwater. Should any of these be encountered during foundation construction, the foundation recommendations provided below may need to be revised. The application therefore contravenes the above NPPF.
- Grade II Listed Park House Lodge and conservation area is immediately adjacent to the site. Mid Devon District Council states that Design standards will be higher where planning permission is required, Conservation areas are areas with a special character or quality which should be preserved or enhanced.
- The Developers design statement contravenes local planning policy guidelines by proposing build materials that are alien and give no respect to the locally distinct architecture. Use of Metal sheet roofs and timber cladding are alien to the locally distinct character of the village and are not in keeping of Sandford's historic environment and show no respect of the visual historic architectural characteristics of the village
- The development will have a hugely adverse impact on the character of the neighbourhood and on the residential amenity of neighbours. This includes loss of daylight and an increase in light pollution at night. The application housing layout, including construction heights, mass and density shows no respect to privacy of surrounding properties and therefore in line with Planning Policy Framework guidelines, should be refused.
- The bulk and massing of areas of the development due to the close proximity to existing established 'in keeping' buildings is over-bearing, out of scale and out of character in appearance compared to the existing surrounding developments.
- A higher standard of development is expected where it affects the setting of a listed building in this case Park House. The Mid Devon District Council are under a legal duty to have particular regard to the desirability of preserving or enhancing the character and appearance of a Conservation Area. Similarly, a development which would adversely affect the setting of a Listed Building should be refused.
- I wish to remind the Planning authority that the South Eastern section of the proposal indicated as the area for flood water surface ponds is not within the designated SA1 plot.
- Rural areas are expected to accommodate 10% of housing for Mid Devon - I feel Sandford has already played its part; additional developments are not necessary.
- Concerned about the plan for the 2 basins for surface water which are sited at the bottom of a slope very close to the fence line of many properties on Meadowside Road. Has the impact of storing water in the 2 basins been fully considered in relation to the foundations of the Meadowside Road properties which are all built into the hill to some extent - for example, is there an increased risk of soil slippage/subsidence to these existing properties as a result of the proposed development?
- The bridge at the bottom of the village, by Mill Lane, is not able to cope with a steady stream of heavy construction vehicles.

- Where will household drains be routed?
- I am concerned about the extra strain on the sewage facility located nearby. This often appears to be under pressure due to the red light that appears as part of the sewage system which I have witnessed on many occasions as I walk past.
- There is no provision for self build homes as promoted by central government
- I understood that a quarter of the land would be gifted to the village by means of the existing Millennium Green group which exists to preserve open space and wildlife habitats. This is not apparently happening according to the plans I have seen, except for one small corner adjacent to Snows.
- This development would seem to be motivated by the capitalisation of building on this open natural space and does not heed any of the needs of our community.
- The requirements for additional housing to be built, as driven by Central government targets and not local need, could be met by the smaller and more suitable developments already in the pipeline and has already been over-subscribed in the MDDC area by an average of 39% in the past 3 yrs.
- If this application is to be considered at all it should meet agricultural and other rural business needs, and it should encourage appropriate economic diversification to support the rural economy and provide employment for local people in a sustainable way. There is no provision for any employment to support an increase in population so this application should be refused.
- If this application is to be considered there should be sufficient infrastructure provided to meet the needs of the economy and people brought in to the area concurrent with the construction of housing. Existing Doctors' surgeries are at full capacity, so it must be ascertained with health professionals whether there can be sufficient health capacity to meet increased patient demand and if not, the application should be refused.
- The development is contrary to numerous policies in the Mid Devon Local Plan.
- As the application with the proposed buildings does not look similar to the adjacent Creedy View development it should be refused.
- The children's play area built from the first phase will not be large enough to accommodate the children resulting from this development.
- Additional water run-off from site will damage foundations of neighbouring property.
- The development should be accessed from Brady Close.

An objection was received from the CPRE on the following grounds:

- Proposal and design evolution unsupported by requisite assessments such as a Landscape and Visual Impact Assessment (LVIA)
- Outstanding comments remain to be answered such as to drainage and heritage matters
- Failure to justify increased scale/type of development (quantum)
- Poor quality place making with the development not considered against the National Design Guide
- Failure to quantify the biodiversity net gains resulting from this proposal
- Community Engagement as the development has resulted in significant objection
- What are the economic, social and environmental net gains of this development for the community of Sandford to justify the intensification of built form in this important historic setting

## **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

The main issues in the determination of this application are:

- 1. Principle of development/planning policy**
- 2. Highways and highway safety**
- 3. Drainage and Flood Risk**



4. **Public open space and green infrastructure (GI)**
5. **Design of development and impact on landscape and ecology**
6. **Impact on Heritage Assets**
7. **Living conditions of the occupiers of nearby residential properties**
8. **S106 Obligations and local finance considerations**
9. **Sustainable development balance.**

## **1. Principle of development/planning policy**

S.38[6] of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise. The National Planning Policy Framework is noted as one such material consideration. The National Planning Policy Framework outlines three dependant objectives of sustainable development; economic, social and environmental.

The National Planning Policy Framework (2021) outlines that development should be guided towards the most sustainable locations available, including previously developed or underused land in settlements. The Mid Devon Local Plan 2013-2033 was adopted in 2020 and sets out the growth strategy for the District that seeks to balance social, environmental and economic objectives. Policy S1 states that development will be concentrated at Tiverton, Cullompton, and Crediton. Policy S13 (Villages) which recognises Sandford states that development will be limited to proposals within their defined settlement limits and to allocations for:

- a) Small scale housing, employment, tourism and leisure;
- b) Services and facilities serving the locality; and
- c) Other limited development which enhances community vitality or meets a local social or economic need.

The site is located within the settlement boundary of Sandford where small scale residential proposals could be considered acceptable in principle in accordance with policy S13 subject to the development being designed to meet other adopted policy. The site is outlined as an allocated housing site within the Mid Devon Local Plan 2013-2033 under Policy SA1 - Fanny's Lane, Sandford. This policy states:

*A site of 1.5 hectares at Fanny's Lane, Sandford is allocated for residential development, subject to the following:*

- a) 27 dwellings with 30% affordable housing;*
- b) Buffer strip of planting or open space to protect the setting of the listed Park House and Sandford Conservation area; and*
- c) Careful design and landscaping to protect views towards Sandford and the historic core around St Swithun's Church.*

It is noted that the above policy is based on providing 27 dwellings across the site whereas this development would represent a second phase of development with planning permission already being implemented on part of the site for 19 dwellings. Planning Permission 13/00498/MFUL approved a mixed development of 12 open market houses and 7 affordable eco-houses; new access and estate road; additional car parking facilities for the Village Hall; closure of the existing Parish Hall Car Park entrance; provision of a children's play area for the Parish Hall; highway improvements to Fanny's Lane; footpath link to Snows and Meadows Road; retention and renovation and use for car parking (Revised Scheme) on part of the allocated site.

Therefore based on the policy wording, this would mean that a development of 8 dwellings would still be possible. However, the proposal is for 13 dwellings. Having consulted with the Forward Planning Team, this figure of 27 dwellings would not prevent a residential development of an

increased number of dwellings being considered and accepted, as the National Planning Policy Framework (NPPF) seeks to make the most efficient use of land with the assessment to be made as to whether the layout and density of the residential development is appropriate and fits into the context of the site and surrounding area.

With respect to other relevant policies within the saved Development Plan, Policy S1 (Sustainable development priorities) of the Mid Devon Local Plan 2013-2033 seeks to manage growth in a sustainable way to support the diverse needs of communities, including the provision of affordable housing and making the most efficient use of land. Policy S3 (Meeting housing needs) seeks to meet the diverse housing needs of the community, including the provision of affordable dwellings across the District.

The layout plan submitted shows how the layout for the residential development of 13 dwellings would be achieved which has been considered to be acceptable and below the planning matters of the development are considered further.

## **2. Highways and highway safety**

Policy DM1 of the Mid Devon Local Plan states that new development should be safe and accessible based upon and demonstrating the principle of creation of safe and accessible places that also encourage and enable sustainable modes of travel such as walking and cycling. Policy DM5 states that sufficient vehicle parking and bicycle storage must be provided. In addition to these policies, any proposal must not adversely affect the safe functioning of the highway in line with policies S8 (Infrastructure) and DM3 (Transport and air quality) of the Mid Devon Local Plan 2013-2033.

The main access into the site would be via the adopted highway of Creedy View and would appear to be acceptable in principle, subject to meeting the required width and alignment and visibility splays where the new estate road joins the adopted highway. With regard to the required on-site parking provision, it is noted that the current layout identifies 2 spaces per residential unit which would be in accordance with Policy DM5 where by the residential parking standard is 1.7 spaces per unit. The Local Highway Authority has raised no objections to the proposals recommending a number of conditions such as a Construction Environment Management Plan which have been included in the officer recommendation.

Notwithstanding concerns raised by objectors to the number of dwellings proposed and associated traffic levels travelling across the surrounding road network, on balance, given that the Local Highway Authority have not raised an objection to the proposal on highway safety grounds with the site being allocated for residential development, the development is considered to comply with the above policies of the Mid Devon Local Plan 2013-2033.

## **3. Drainage and flood risk**

The NPPF states that when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment. Major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate. The systems used should take account of advice from the lead local flood authority, have appropriate proposed minimum operational standards, have maintenance arrangements in place to ensure an acceptable standard of operation for the lifetime of the development; and where possible, provide multifunctional benefits.

Policy S9 of the Mid Devon Local Plan 2013-2033 guides development to locations with the lowest flood risk and seeks to ensure development does not increase the risk of flooding elsewhere. The application site is within flood zone 1. Therefore the main consideration relates to how foul drainage and surface water drainage would be dealt with.

The applicant has stated within the application form that foul sewage will connect to the mains sewer and surface water will be disposed of by way of a sustainable drainage system. The Public Health Department has raised no objection on drainage grounds. Policy DM1 of the Local Plan requires appropriate drainage including sustainable drainage systems and connection of foul drainage to a mains sewer where available. Policy DM26 of the Local Plan relating to green infrastructure requires major development proposals to demonstrate flood and water resource management.

The Lead Local Flood Authority (Devon County Council) initially raised objections to the development as it did not consider that the drainage issues at the site and in relation to the proposed development had been adequately addressed. Concerns have been received over the capacity of the foul drainage system but South West Water has raised no objection to the development. The applicant has carried out further assessment work and provided further information to the Lead Local Flood Authority during the course of the application, to address their concerns relating to surface water drainage. The LLFA are now satisfied that with the provision of conditions attached to the planning permission, the development site can be provided with adequate drainage facilities such that it would not increase the flood risk elsewhere.

Given the location of the proposed SUDs drainage basins on a higher ground level to existing neighbouring properties to the south along Meadowside Road, concerns were raised by residents that given the position of the works proposed and the significant drop in land (a few metres), depending on the materials used it could result in significant flooding of their properties. The Flood Risk Team at Devon County Council were therefore consulted to provide additional information on this matter. The comments received were *'The basins are designed with a 300 mm freeboard and there are cut off trenches proposed along the southern and eastern boundaries of the site to manage any potential overtopping of the basin (although we really wouldn't expect there to be any considering the conservative nature of the design standard).'* Notwithstanding the views of the Flood Risk Team, a condition has been recommended for the final construction details of the basins to be approved by the LPA in order to provide further assurances for neighbouring residents over the stability of the works.

On this basis, the drainage strategy is considered to comply with policies S9, DM1 and DM26 of the Mid Devon Local Plan 2013-2033.

#### **4. Public open space and green infrastructure (GI)**

Public open space is required from the development in line with Policy S5 (Public Open Space). Within the parish boundaries of Tiverton, Cullompton and Crediton and the parishes containing villages defined in Policy S13 which Sandford would apply, the following standards for the provision of high quality open space will be applied:

Type of open space	Quantity standard (square metres per dwelling)	Access standard
Allotments	6	300 metres or 6-7 minutes' walk time

Amenity green space	23.5	300 metres or 6-7 minutes' walk time
Parks, sport and recreation grounds	35 include both public and private grounds (excluding education sites)	600 metres or 12-13 minutes' walk time
Play space (children)	1.5	300 metres or 6-7 minutes' walk time
Youth space (teenagers)	0.5	600 metres or 12-13 minutes' walk time

Given the proposed number of dwellings, the policy requirement would allow for an off site financial contribution towards the provision or improvement of existing public open space in the village. However, within the planning submission, it is noted that the application site has a redline area of 1.43Ha, with the statement made that over half of this (0.78ha) is being provided as high quality public open space (POS). In addition to this, that the POS shown along the southern boundary is to be gifted to the 'Sanford Millennium Green Trust' by the family who currently own the site, and this land can be incorporated as part of the open space offer with this development.

As commented upon within the supporting text, the balance of onsite and offsite provision according to site size is set out in the policy, but the Council will consider on a case-by-case basis any proposals that seek to justify a different solution. A planning obligation would be used to control the long-term maintenance of onsite open space through a management company.

In line with 'The Provision and Funding of Open Space Through Development' SPD, having taken into account the usable public open space to be provided within the development, it has been calculated that a financial contribution of £5768 towards public open space provision in the Parish of Sandford in line with the requirements of Policy S5 (Public Open Space) is required. This figure takes into account the public open space to be provided on site which has been subtracted from the off site financial contribution. The project which has been allocated for Improvements to Play Area including new adult exercise equipment at Sandford Play Area in Sandford. In addition to the provision of public open space on site and the off site financial contribution it should also be noted that the first phase of the development approved under 13/00498/MFUL provided a children's play area by the village hall.

Policy DM26 of the Mid Devon Local Plan 2013-2033 requires major development proposals to demonstrate that GI will be incorporated within the site to provide biodiversity mitigation, flood management, green corridors and public rights of way linking the site to the wider GI network, and new GI such as the creation of woodland. The NPPF states that planning decisions should protect and enhance public rights of way and access, including taking opportunities to provide better facilities for users. The submitted layout plan indicates the areas of Green Infrastructure in and around the site and therefore it is considered that the policy requirement can be satisfied.

## 5. Design of development and impact on landscape and ecology

The NPPF states that planning decisions should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils, recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services. Development should minimise impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks. If significant harm to biodiversity resulting from a development cannot be avoided (through locating

on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused. Planning decisions should seek to limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.

The site is not located within a designated landscape although given the topography of the site where land falls from north to south, the development will be viewed from a number of public vantage points. Policy DM1 (High quality design) outlines:

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

- a) Clear understanding of the characteristics of the site, its wider context and the surrounding area;*
- b) Efficient and effective use of the site, having regard to criterion (a);*
- c) Positive contribution to local character including any heritage or biodiversity assets and the setting of heritage assets;*
- d) Creation of safe and accessible places that also encourage and enable sustainable modes of travel such as walking and cycling;*
- e) Visually attractive places that are well integrated with surrounding buildings, streets and landscapes, and do not have an unacceptably adverse effect on the privacy and amenity of the proposed or neighbouring properties and uses, taking account of:*
  - i) Architecture*
  - ii) Siting, layout, scale and massing*
  - iii) Orientation and fenestration*
  - iv) Materials, landscaping and green infrastructure*
- f) Appropriate drainage including sustainable drainage systems (SUDS), including arrangements for future maintenance, and connection of foul drainage to a mains sewer where available;*
- g) Adequate levels of daylight, sunlight and privacy to private amenity spaces and principal windows;*
- h) Suitably sized rooms and overall floorspace which allows for adequate storage and movement within the building together as set out in the Nationally Described Space Standard with external spaces for recycling, refuse and cycle storage; and*
- i) On sites of 10 houses or more the provision of 20% of dwellings built to Level 2 of Building Regulations Part M 'access to and use of dwellings'.*

In terms of the layout and scale of the development which includes two bungalows with the rest of the properties proposed being two storey, it is considered that this is generally acceptable in principle. The scheme is for 13 dwellings which represents a net increase of 5 dwellings above the policy target but the proposal results in a good fit and a better density across the site, which is not considered to represent overdevelopment. In terms of the dwellings, final details for materials are to be conditioned with the Conservation Officer suggesting types of render or painted brick to be used for walls and also to the use of stone within the development.

The Design and Access Statement states that windows for the dwellings have been designed to resemble Georgian windows proportions, found in the centre of the village but seeks to achieve more contemporary look to it by utilising delicate windows frames in dark colour. Roofs are to be clad in two contrasting materials, slate and standing seam metal roof, which would create a varied roofscape. I note that concerns have been raised to the use of metal roof material but in the context of the site, it is not considered that the use of this material would warrant a refusal of the planning application. The general design of the dwellings and orientation are considered to be acceptable and they meet the nationally described space standard.

In relation to the wider landscape, adjacent housing, vegetation and rural landscape, there is the need to reduce any impact of any lighting or light pollution on that landscape, as the introduction of development in this area will have an effect on the landscape and views. A condition is therefore recommended to agree the external lighting of the site. Retention of hedgerows and other natural landscape assets on site would help to provide some screening of the development and ground the proposal in its setting, whilst protecting habitats and offer valuable natural amenity within the development. Members are advised that the landscape impacts of a development on this site would have been considered prior to allocating the site within the Local Plan and in any event, mitigation proposals in terms of landscaping form part of this application.

With regards to protected species and habitats an ecological appraisal was submitted which outlined a number of recommendations and mitigation measures to ensure protected species were safeguarded. In addition to this, biodiversity enhancements for bat roosting and bird nesting were outlined to result in biodiversity gains, and it is noted that landscaping is proposed across the site. A condition is therefore recommended for the development to be carried out in accordance with the recommendations within the ecological appraisal and for confirmation of the biodiversity enhancement measures installed throughout the development to be provided prior to occupation of the dwellings.

Therefore in light of the above, it is considered that the design, landscape and ecology proposals are capable of complying with policies DM1 and S9 of the Mid Devon Local Plan 2013-2033 and the provisions of the NPPF.

## **6. Living conditions of the occupiers of nearby residential properties**

Paragraph 130 of the NPPF outlines that planning policies and decisions should ensure that developments:

- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
- b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
- c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);
- d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;
- e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and
- f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

This is reflected in policy DM1 of the Mid Devon Local Plan 2013 - 2033 which sets out that new development should respect the privacy and amenity of neighbouring residents. The siting of the dwellings and orientation of windows is such that it is considered that a residential development has been designed to be in accordance with this policy, with adequate separation between the

proposed dwellings and existing neighbouring properties. Cross section plans have been provided which outline that plot 7 will have a finished floor level approximately 2m lower to the existing neighbouring properties along Creedy View and the orientation is such that plot 7 will be side on to the rear of the existing neighbouring properties with adequate separation to prevent any overbearing impact or overshadowing.

A condition has been recommended to remove permitted development rights on the dwellings closest to the properties of Creedy View and also to the bungalow on plot 8 given the proximity to the Conservation Area and a listed building, which could be impacted upon through certain additions to the units which could be possible through permitted development rights.

## **7. Impact on Heritage Assets**

To the west of the site is Park House (a listed building) and its grounds which is also within the Conservation Area. In coming to this decision the council must be mindful of the duty as set out in section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving the listed building, its setting and features of special architectural or historic interest which it possesses and the duty as set out in section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving the listed building, its setting and features of special architectural or historic interest which it possesses, and have given it considerable importance and weight in the planning balance.

Policy DM25 (Development affecting heritage assets) of the Local Plan Review outlines that Heritage assets and their settings are an irreplaceable resource. Accordingly the Council will:

- 'a) Apply a presumption in favour of preserving or enhancing all designated heritage assets and their settings;*
- b) Require development proposals likely to affect the significance of heritage assets, including new buildings, alterations, extensions, changes of use and demolitions, to consider their significance, character, setting (including views to or from), appearance, design, layout and local distinctiveness, and the opportunities to enhance them;*
- c) Only approve proposals that would lead to substantial harm or total loss of significance of a designated heritage asset where it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss or the requirements of the National Planning Policy Framework are met;*
- d) Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use; and*
- e) Require developers to make a proportionate but systematic assessment of any impact on the setting and thereby the significance of heritage asset(s).'*

The Conservation Officer has viewed the proposals and visited the site noting that it's an informal open space which has public footpaths running across well used and which also acts as a soft foil to edge of Conservation Area. The Conservation Officer does not object to the majority of the proposed layout which leaves paths and edge of open space but has raised concern to the setting the Park House LB and plot 8 as this in his opinion projects out in front of the building line of the listed building and is likely to be visible as the Listed Building is approached. Therefore the solution put forward is to relocate plot 8 to the north and keep the edge as buffer zone POS with pathway.

A Heritage Statement was submitted as part of this application and the Heritage Consultant is of a differing professional opinion to the Council's Conservation Officer. As the Case Officer, and

having been on site and noting the existing vegetation along the boundary with the neighbouring listed building and that plot 8 would be a bungalow, it is considered that notwithstanding the views of the Conservation Officer the location would be acceptable on balance as the public open space to the north of plot 8 is preferable to a building plot location in order to prevent long alleyways to the existing footpath, and this open space is an integral part of the layout design.

Through assessing the development, it is considered that the level of harm in this instance would be less than substantial and the benefits of the development would outweigh this harm given the delivery of affordable housing, on site public open space and financial contributions towards air quality mitigation and off site public open space. Also to preference for the location of the public open space, pedestrian linkages across the site, the difference in ground levels and existing established tree screen along the boundary.

## **8. Section 106 obligations**

The s106 requirements are set out in full at the start of this report.

Policies S12 (Credton) and CRE11 (Credton Infrastructure) outlines the requirements for the provision of an off-site financial contribution towards funding improvements which seek to address air quality within the Credton Air Quality Management Area. The Supplementary Planning Document (SPD) sets out the relevant contributions levels arising from new residential development as is the case with this proposal. In accordance with these policies and the relevant guidance in the supporting SPD on the provision and funding of Air Quality mitigation, a financial contribution of £ 4,434.00 would be required for each new unrestricted residential unit created. Therefore a financial contribution of £44,340 is required towards funding improvements which seek to address air quality within the Credton Air Quality Management Area in line with adopted policy. A project has been allocated for provision and improvement of footpath and cycle links into and within the designated Air Quality Management Area.

As noted earlier in the report, on site public open space is to be provided and details of Management Company to maintain the public open space in perpetuity will be required within the S106 agreement. In addition to the on site provision, a financial contribution of £5768 towards public open space provision in the Parish of Sandford in line with the requirements of Policy S5 (Public Open Space) is proposed. This figure takes into account the public open space to be provided on site which has been subtracted from the off site financial contribution. The project which has been allocated for Improvements to Play Area including new adult exercise equipment at Sandford Play Area in Sandford.

On the matter of affordable housing for this scheme of 13 dwellings, 3 affordable dwellings are proposed on the basis of 30%. The site allocation Policy SA1 - Fanny's Lane, Sandford outlined that there should be a development of 27 dwellings with 30% affordable housing so this figure is in line with the policy requirement setting out the necessary percentage.

It has been noted that Planning Permission 13/00498/MFUL approved a mixed development of 12 open market houses and 7 affordable eco-houses; new access and estate road; additional car parking facilities for the Village Hall; closure of the existing Parish Hall Car Park entrance; provision of a children's play area for the Parish Hall; highway improvements to Fanny's Lane; footpath link to Snows and Meadows Road; retention and renovation and use for car parking (Revised Scheme) on part of the allocated site. However the amount of affordable dwellings provided at this time was based partly on an exception site given the location of the development at the time outside of a settlement limit.



The Local Planning Authority has calculated the 30% based on a scheme for 13 dwellings rather than across a scheme for 32 dwellings representing the entire allocation. The applicant has commented that on the basis of a scheme for 32 dwellings whereby 7 affordable units have already been provided would mean that only two affordable dwellings would be required on this second phase. However they note that they are happy to provide 3 affordable dwellings and that the additional affordable unit is a benefit to the scheme which outweighs any harm such as to the impact on the setting of a heritage asset.

The s106 would require the submission of an affordable housing scheme setting out the mix and tenure to be agreed prior to provision on site. The provision of affordable housing on site will be in accordance with triggers set out in the agreement.

Paragraph 204 of the Framework and Regulation 122 of the Community Infrastructure Levy Regulations 2011 (as amended) set tests in respect of planning obligations. Obligations should only be sought where they meet the following tests:

- Necessary to make the development acceptable in planning terms;
- Directly related to the development; and
- Fairly and reasonably related in scale and kind to the development.

It is considered that each of these obligations satisfies the relevant tests above.

## **9. Planning balance**

The application should be approved unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF and the Mid Devon Local Plan, taken as a whole. The application is in full and there are no technical reasons why the application should not be approved, subject to the required mitigation set out in the report above. Impacts on biodiversity and landscape can be adequately mitigated through the design, layout and landscaping plans submitted, and the increase in traffic on the local road network is acceptable to the Highway Authority, subject to conditions.

The delivery of 13 new homes, including the securing of 30% affordable housing (3 units) weighs in favour of approval of the application. Also weighing in favour of the approval is the financial contribution towards public open space and air quality mitigation. There could also be some modest benefits to the local economy, arising from construction and sales and additional spending by local residents on local services and facilities. The site is identified for development within the Local Plan and is located within the existing settlement limit for the town within walking distance of the centre where existing facilities and services can be found. Weighing against approval of the application is the concern identified by the Conservation Officer to the potential impact on the setting of a nearby listed building.

However, taking all the above into consideration, your officers consider that the balance weighs in favour of approval of the application. Other matters put forward in favour of the development include an absence of harm to ecology, flooding, drainage and highway safety. Nonetheless, these are mitigating factors rather than benefits and the weight to be given to them is therefore limited.

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

## CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice.
3. Notwithstanding the provisions of Article 3 of The Town and Country Planning [General Permitted Development] [England] Order 2015 [or any Order revoking and re-enacting that Order with or without modification] no development of the types referred to in Classes A, AA, B, C, D and E of Part 1, Schedule 2 relating to the extension and alteration of the dwelling, extensions or alterations to its roof, the insertion of windows and/or roof lights, porches and the provision of outbuildings, shall be undertaken within the dwellings curtilage for plots 1 - 8 without the Local Planning Authority first granting planning permission.
4. Prior to their use on site, details or samples of the materials to be used for all the external surfaces of the buildings shall first have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved materials shall be so retained. Notwithstanding details provided, the Council's Conservation Officer has set out that the stone quality and coursing should follow local traditions and with respect to render, suggests alternatives such as a roughcast render or painted brickwork to offer a texture.
5. All planting, seeding, turfing or earth reprofiling comprised in the approved details of landscaping shall be carried out within 9 months of the substantial completion of the development or first planting season (whichever is sooner). Any trees or plants which, within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species. Once provided, the landscaping scheme shall be so retained.
6. Prior to commencement of any part of the site the Planning Authority shall have received and approved a Construction Environmental Management Plan (CEMP) including:
  - (a) the timetable of the works;
  - (b) daily hours of construction;
  - (c) any road closure;
  - (d) hours during which delivery and construction traffic will travel to and from the site, with such vehicular movements being restricted to between 8:00am and 6pm Mondays to Fridays inc.; 9.00am to 1.00pm Saturdays, and no such vehicular movements taking place on Sundays and Bank/Public Holidays unless agreed by the planning Authority in advance;
  - (e) the number and sizes of vehicles visiting the site in connection with the development and the frequency of their visits;
  - (f) the compound/location where all building materials, finished or unfinished products, parts, crates, packing materials and waste will be stored during the demolition and construction phases;
  - (g) areas on-site where delivery vehicles and construction traffic will load or unload building materials, finished or unfinished products, parts, crates, packing materials and waste with confirmation that no construction traffic or delivery vehicles will park on the County highway for loading or unloading purposes, unless prior written agreement has been given by the Local Planning Authority;
  - (h) hours during which no construction traffic will be present at the site;

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

The CEMP shall also 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.

7. 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.
8. In accordance with details that shall previously have been submitted to, and approved by, the Local Planning Authority, provision shall be made within the site for the disposal of surface water so that none drains on to any County Highway.
9. Any dwelling constructed shall not be occupied until the access, parking and turning areas associated with that plot have been provided in accordance with the approved plans. Following their provision these facilities shall be so retained.
10. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with details to be agreed in writing by the Local Authority, and where remediation is necessary a remediation scheme, which is subject to the approval in writing of the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.

11. 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 Weaver's Way Sandford 32002-BPC-ZZ-XX-RP-C-0000
  - (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 plan indicating how exceedance flows will be safely managed at the site.

(e) Evidence there is agreement in principle from South West Water  
No building hereby permitted shall be occupied until the works have been approved and implemented in accordance with the details under (a) - (e) above.

12. The development hereby approved shall be carried out in accordance with the recommendations and mitigation outlined within the Ecological Appraisal, dated February 2021 and produced by Richard Green Ecology Ltd. Prior to occupation of any of the dwellings hereby approved, details shall be submitted to the Local Planning Authority to confirm the location of the ecological enhancement measures installed for the bird nesting provision and bat roosting provision as set out in the Ecological Appraisal.
13. Prior to the first occupation of the dwellings hereby approved, details of any external lighting within the application site shall be submitted, to and agreed in writing by the Local Planning Authority as part of a lighting strategy with external lighting installed in accordance with the agreed details. For the avoidance of doubt, new lighting on site shall be directed away from existing vegetation with any mature trees on site to be kept as dark as possible without compromising safety on site.
14. Prior to commencement of the development hereby approved, a more detailed Waste Audit Statement shall be submitted to and approved in writing with the Local Planning Authority. For the avoidance of doubt, the following points need to be addressed in this statement:
  - Explanation of the method of auditing the waste which should include a monitoring scheme and corrective measures if failure to meet targets occurs;
  - Prediction of the amount of waste that will be generated once the development is occupied (in tonnes); and
  - Additional information on the reuse, recycling and recovery of waste during the construction phase which would be in line with the CEMP to be approved.The development shall be carried out in accordance with the approved Waste Audit Statement.
15. Prior to the commencement of the engineering operations for the SUDs basins to the south east of the site, full details and method for their construction shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

## **REASONS FOR CONDITIONS**

1. In accordance with the provisions of Section 51 of the Planning and Compulsory Purchase Act 2004.
2. For the avoidance of doubt and in the interests of proper planning.
3. To safeguard the visual amenities of the area and amenities of neighbouring dwellings in accordance with policy DM1 of the Mid Devon Local Plan 2013-2033.
4. To ensure the use of materials appropriate to the development in order to safeguard the visual amenities of the area in accordance with Mid Devon Local Plan 2013-2033 Policies S9 and DM1.
5. To ensure that the development makes a positive contribution to the character and amenity of the area in accordance with policy DM1 of Mid Devon Local Plan 2013-2033

6. To ensure that the proposed development does not prejudice the amenities of neighbouring occupiers in accordance with Policy DM1 of the Mid Devon Local Plan 2013-2033.
7. To ensure that adequate information is available for the proper consideration of the detailed proposals.
8. In the interest of public safety and to prevent damage to the highway.
9. In the interest of highway safety, and to ensure that adequate on-site facilities are available for traffic attracted to the site in accordance with Policy DM5 of the Mid Devon Local Plan 2013-2033.
10. To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy DM1 of Local Plan 2013-2033.
11. The 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.
12. To ensure the protection of endangered species, under the European Habitats Directive and the Conservation of Natural Habitats and of Wild Fauna and Flora [Council Directive 92/43/EEC] which is implemented in the UK by the Conservation [Natural Habitats & Conservation] Regulations 1994 [Statutory Instrument No 2716] amended in 2007 and in accordance with policy DM1 of Mid Devon Local Plan 2013-2033.
13. To safeguard the amenity levels enjoyed by the occupiers of neighbouring properties and to protect wildlife in accordance with policy DM1 of the Mid Devon Local Plan 2013-2033.
14. In order to produce a comprehensive waste audit statement that is in accordance with Policy W4: Waste Prevention of the Devon Waste Plan. It is noted that the current Waste audit Statement needs to explain a number of targets.
15. In order that the SUDS basins are structurally stable and to prevent any impact on the immediate occupiers of neighbouring property to the south.

## **INFORMATIVES**

1. The Public Health Team advises the applicant that with House types C1 and C2 the bedrooms are inner rooms with no primary safe means of escape in the event of a fire. Therefore they recommend that a proper hall is created at the foot of the stairs with access directly out of the property as the stairs currently descend directly to the living room which is considered to be a high risk area.
2. If a private supply is to be used by more than one property or has a commercial function, The Private Water Supply (England) Regulations 2016 as amended will apply. A risk assessment and sampling regime will be necessary. The supply must not be used until the Local Authority

(Mid Devon District Council) is satisfied that the supply does not constitute a potential danger to human health, including single domestic use. You must also register with the Local Authority (Mid Devon District Council) any private water supply. Failure to do so may result in a Section 85 Notice, with which failure to comply is an offence. Please contact Public Health at Mid Devon District Council on completion of proposal.

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

The site is located within the defined settlement limit of Sandford being part of an allocation for the residential development of 27 dwellings, Policy SA1. Therefore the principle of residential development on this site is accepted and part of this allocation has been built out. The quantum and density of the development proposed is slightly more than that of the policy aspirations identified within the remaining land allocation for residential development within the local plan policy. The access into the site to serve a development of 13 dwellings is considered acceptable to the Highway Authority. It is considered that the overall design, scale and layout of the residential development is acceptable in this location not resulting in a significant detrimental impact on the landscape. The application should be approved unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF, taken as a whole. It is noted that concerns have been raised to potential harm to the setting of a nearby listed building but it is considered that this harm is less than substantial with the benefits of the scheme outweighing the harm. There are no technical reasons why the application should not be approved subject to appropriate mitigation as proposed with drainage measured considered to be acceptable. Impacts on biodiversity and landscape can be adequately mitigated, and the access arrangement and increase in traffic on the local road network is acceptable to the Highway Authority. The delivery of 13 new homes, of which three will be affordable dwellings weighs in favour of approval of the application as do S106 contributions towards public open space, air quality mitigation and on site public open space. Taking all the above into consideration, the application is considered to be acceptable meeting the requirements of Policies S1, S5, S8, S9, S13, SA1, DM1 and DM5 of the Mid Devon Local Plan 2013-2033.

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

Application No. 20/02128/FULL

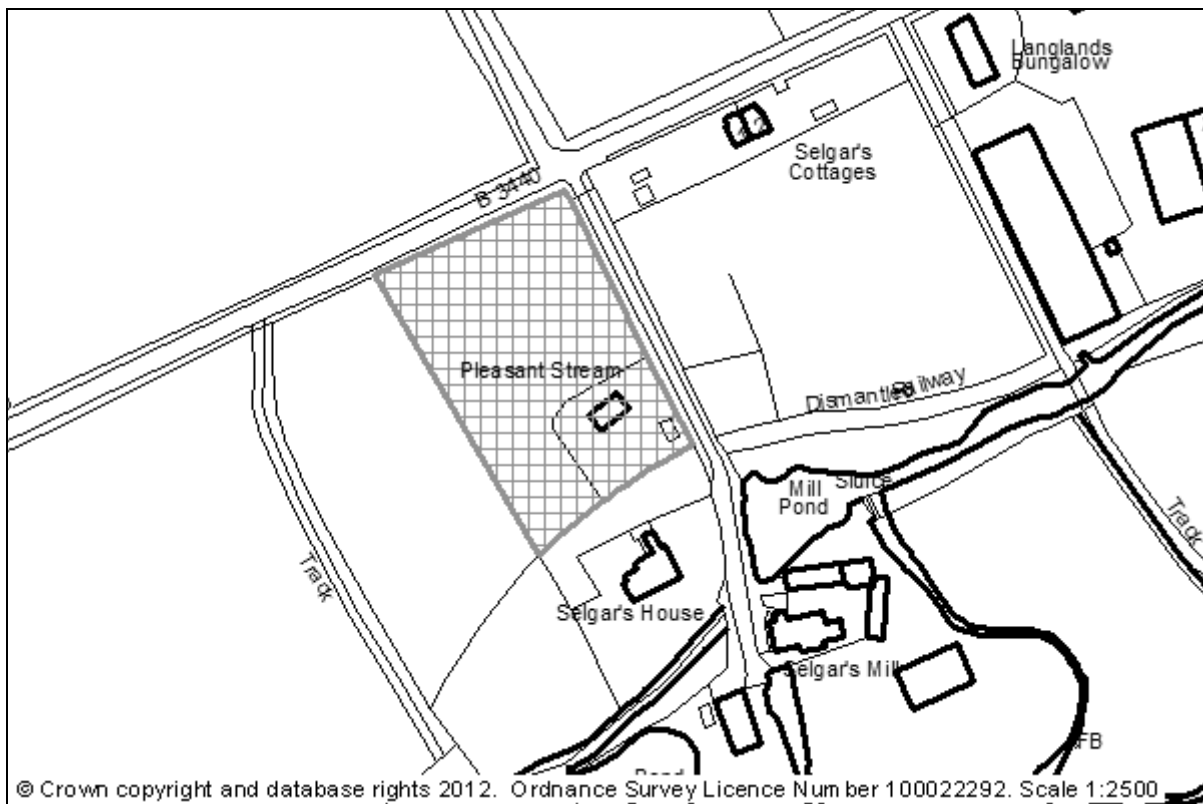
Grid Ref: 305040 : 111760

Applicant: Mr Thomas Dolan

Location: Pleasant Streams  
Uffculme  
Cullompton  
Devon

Proposal: Change of use of land for the provision of 6 permanent pitches for the use of gypsy and traveller family, formation of a new vehicular access, hardstanding and associated works

Date Valid: 4th January 2021



## **APPLICATION NO: 20/02128/FULL**

**Site Visit: Yes**

**Date of Site Visit: 4<sup>th</sup> September 2021**

**At the committee meeting on 18<sup>th</sup> August members resolved to defer the application to undertake a site visit, this is scheduled for Friday 4<sup>th</sup> September.**

### **MEMBER CALL-IN**

**The application has been called in by Cllr Radford if recommended for approval to consider;**

- 1) The planning history of the site – planning permission was granted to the previous occupier on a personal basis only on the basis that it should return to agricultural use once occupation ceased.
- 2) The site is within 400m of livestock.
- 3) Whether the proposed development constitutes over-development of the site
- 4) Whether the development would result in serious highway and traffic concerns.

### **RECOMMENDATION**

Grant permission subject to conditions

### **PROPOSED DEVELOPMENT**

Change of use of land for the provision of 6 permanent pitches for the use of gypsy and traveller family, formation of a new vehicular access, hardstanding and associated works.

The site is located in the countryside to the south west of Uffculme and north east of Willand. The site is sited to the south of Uffculme Road with access currently achieved via the private lane which borders the eastern boundary of the site and also serves the properties at Selgars House and Selgars Mill to the south/ south east of the site. The site area extends to approximately 0.65 hectares. An area of approximately 1.3 hectares in the south east corner of the site has previously been used for the siting of three mobile homes for residential occupation subject to a personal occupancy restriction (see planning history), the residential occupation by the previous traveller family is understood to have been ongoing for in excess of 25 years.

This application seeks permission for the change of use of land for the provision of 6 permanent pitches for the use of gypsy and traveller family, formation of a new vehicular access, hardstanding and associated works. The new access is proposed to provide direct access from the B3440 (Uffculme Road). The submitted plan indicates that pitches 1-4 would be provided in the northern part of the site, adjacent to the eastern boundary. Pitches 5 and 6 are proposed to be located to the south of the small belt of trees across the site. The plan indicates that a new hedgerow would be provided on a spoil bank to enclose the western boundary from the wider agricultural field. Additional planting is indicated to the northern boundary and the eastern boundary to infill the existing access point. The plan indicates that foul drainage would be managed via a package treatment system located in the agricultural land to the west. Surface water drainage is proposed to be managed via a soakaway.

The southern part of the site and extending west beyond the site boundary is currently being used for the siting of mobile homes in breach of planning control. A poultry house and hardstanding has also been constructed to the west of the site, however regularisation is not sought for this as part of this application.



## **APPLICANT'S SUPPORTING INFORMATION**

Application form  
Statement in relation to details of hard and soft landscaping  
Information regarding Devon Hedges  
Access appraisal technical note by Sanderson Associates  
Ultidrive porous tarmac brochure  
Wildlife trigger table  
Planning, Design and Access Statement  
FDA1 form  
Statement re lighting and drainage  
Site location plan & block plan  
Letter regarding gypsy traveller status

Revised/additional information received 4<sup>th</sup> August  
Revised block plan – ref PLP/2021 REV E  
Preliminary ecological appraisal  
Google earth images

## **RELEVANT PLANNING HISTORY**

95/00218/FULL - PERMIT date 5th September 1995Renewal of previous temporary consent for the siting of a mobile home  
05/01511/FULL - WD date 15th September 2005Variation of conditions (1) and (2) of planning permission 4/25/95/0219/R to remove the personal permission and allow continued use of land for any Gypsy family and to allow the number of caravans to increase to 3 residential caravans in total on the site  
05/02300/FULL - PERMIT date 8th December 2005Continuation of the use of land for the siting of three mobile caravans (resubmission)  
09/01039/FULL- REFUSE Change of use of agricultural land to provide 12 permanent pitches for the use of gypsies & travellers including the construction of 6 double amenity blocks and formation of access  
11/01238/FULL - REFUSE date 12th April 2012Variation of condition 1 of planning permission 05/02300/FULL to allow the siting of a further (fourth) caravan and removal of condition 2 of planning permission 05/02300/FULL (personal consent to the Hooke family only) to allow occupation of site by persons falling within the definition of a "gypsy" (APPEAL DISMISSED 8.3.13)  
20/02128/FULL - PCO date Change of use of land for the provision of 6 permanent pitches for the use of gypsy and traveller family, formation of a new vehicular access, hardstanding and associated works

## **DEVELOPMENT PLAN POLICIES**

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

Policy S1 -Sustainable development priorities  
Policy S3- Meeting housing needs  
Policy S9 – Environment  
Policy S14 – Countryside  
Policy DM1 -High quality design  
Policy DM3 - Transport and air quality  
Policy DM4 – Pollution  
Policy DM5 – Parking  
Policy DM7 - Traveller sites

National Planning Policy Framework

National Planning Practice Guidance

Planning policy statement for travellers (PPTS)

## **CONSULTATIONS**

**HALBERTON PARISH COUNCIL - 24/01/2021** - The planning application should not be accepted and request for Councillor Radford to call the application in on the following grounds:

The land was designated agricultural land and site permission had only been granted to the previous owner for a single unit with a stipulation that it should return to agricultural use.

The site was within 400m of livestock.

It was an unauthorised development and an enforcement order had been issued and ignored.

The proposed development constituted over-development of the site and raised serious highway and traffic concerns.

**30/03/2021** - After discussion, the Councillors of Halberton Parish Council unanimously **RESOLVED** that the committee should object to this application and firmly recommend its refusal as previously conveyed on 24th January 2021. Furthermore, the request for Councillor Radford to call the application in should remain in place.

The Council is mindful of the planning history of the site and the restrictions which were placed on the original permission which included a personal condition that the land be restricted to the resident applying for such permission in 2005. If the land was subsequently vacated by said resident and her dependents that the land should be restored to agricultural land and all caravans, hard standing and private drainage systems should be removed.

It is the council's understanding that the above conditions remain in place and that if 'said resident or her dependents' are not living on the land then there is no change of use available and it should revert to agricultural land and new occupiers would not be permitted to develop the site.

When the new occupiers of the site started major development works, the matter was referred to the Planning Enforcement Officers but this has not resulted in the work being stopped given that planning permission for such development does not exist. It is noted that the planning application refers to retrospective permission being sought.

The site is outside any settlement area for development, is in open countryside and in very close proximity to Selgars House and the three surrounding properties.

In addition, access to/from the site is onto a busy road subject to the national speed limit and without street lighting. Furthermore, there is not footpath on the main road leading to either Willand or Uffculme and thus local facilities and the bus service is very limited resulting in journey to/from the site being by motor vehicle. The Council thus has considerable concerns with regard to road safety.

The Council is also given to understand that poultry cages have been erected in close proximity to the existing houses again an area for concern.

Taking into consideration the legislation and policies on the provision of traveller/gypsy sites, the development of this particular land would appear to fall outside the current guidelines and be in direct conflict with the conditions set out in 2005, the Council would strongly re-iterate its view that the application should be refused.

**21/06/2021-** At the Halberton Parish Council meeting on 8th June 2021, it was unanimously RESOLVED to write to you regarding the above application and to raise the Council's concern, and that of local residents, to the continued delay in MDDC making a decision on this application. As I am sure you will appreciate, the time taken to deal with the application is having an adverse effect on local residents. It is the Council's understanding that planning applications should be dealt with in a timely fashion and this application has been with MDDC for over six months. Whilst the delay continues potentially further unauthorised development of the site could and may have been undertaken.

As you are aware, the Councillors of Halberton Parish Council unanimously RESOLVED that the committee should object to this application and firmly recommend its refusal as conveyed to you on 24th January 2021 and again on 29th March 2021. The Council is mindful of the planning history of the site and the restrictions which were placed on the original permission and that the matter has been referred to the Planning Enforcement Officers. The Council, in its letter of 29th March 2021, asked that Councillor Radford call the application in and the Council would request that the application is now dealt with exponentially.

**WILLAND PARISH COUNCIL - 01/02/2021** - Willand Parish Council discussed this application at a special meeting of the Planning Committee on 28 January 2021. It was the unanimous decision of the committee that it should object to this application and firmly recommend refusal.

The members were aware of the planning history of the site and the restrictions which were placed on the original permission and a number of attempts to achieve variations to the conditions to remove a restriction and to enlarge the capacity of the site. In 2005 an approval was obtained and three applicable conditions were that - 1. no more than 3 caravans should be on site; 2. there was a personal condition to the resident restricting occupation to her and her dependents and the third condition is stated to be "In the event that the application site becomes no longer required for the purpose referred to in conditions 1 and 2 of this permission, the three mobile caravans shall be removed from the site along with the hardened areas therein and the private septic tank drainage system previously serving this development shall become definite and the land shall be restored to agricultural land." These conditions have been tested a number of times over the years but variations have been refused in the main.

Members were also aware that in the summer of 2020 the site was offered for sale which led to nearby residents raising concerns with planning officers resulting in a clear assurance that "I have looked at the history of the site and past permissions and can confirm that the permission would only allow the caravans to be occupied by Mrs \*\*\* H\*\*\*\* and/or her dependants who also need to meet the definition of gypsies. This would therefore extend to her children and grandchildren." A request for clarification as to the status of the land met with the following officer response - "The

land itself does not benefit from any change of use. If the caravans are not occupied by Mrs H\*\*\*\* or dependants as the condition requires then the piece of land would revert back to agricultural land."

With this information members treated the application as for a gypsy traveller site outside of any settlement area for development and therefore in open countryside and in very close proximity to an existing small community of Selgars House and Selgars Mill which amounts to four dwellings. There are also Selgars Cottages in the vicinity.

It is noted that new occupiers of the site started major works to develop the site in November 2020. It is known that the matter was referred to the Planning Enforcement Officers yet works progressed through November and December. Councillors were concerned and disappointed to see that no meaningful action appeared to have been taken to stop the unapproved development and it has been allowed to expand making matters more difficult to recover the correct position.

On the Application form at 5 a description of the application reads "Part retrospective application for the change of use of land to provide 6no permanent pitches for residential use by Gypsy & Traveller family with associated development including formation of a new access, hardstanding and new Devon banks." There is no mention at this point of poultry cages or stables but the stables are mentioned in other documents. No substantive evidence is provided in the papers to show that the applicant is a gypsy or traveller as defined in legislation.

At 9 it refers to there being 6 existing car parking spaces which will be increased to 10. Photographs of the site show a lorry, container and other vehicles.

At 13 it states that foul sewage will be dealt with by a 'package treatment plant' but elsewhere in the application papers it refers to removing one cess pit and replacing it with a more modern one. What is going to be approved?

At 16 it states that there will be no gain of residential units, yet the application is for an increase from 3 to 6 when in fact there should be none. In the Design and Access Statement there is a reference to existing buildings being replaced by 4 further mobile units. This needs clarification.

The Design and Access Statement contains unclear and confusing statements in contradiction of points made in other documents.

It states: "do not intend to erect any further buildings so the landscape, visual impact and development will remain almost the same as it is now except for a small extension to the hardstanding." Members see this as a contradiction of what is sought and what has already been provided and can be observed on site. There are to be 6 permanent pitches instead of 3, there is to be more hardstanding, more fencing, the creation of new hedge banks, a new entrance onto the road with a drive through the site of tarmac and moveable stables. No mention is made of the comprehensive array of poultry pens which are evidenced in a photograph provided by an objector.

It is stated that: "The only lighting will be that which is attached to the mobile homes." In the application papers is detail of a lighting scheme which includes lampposts situated around the site.

It further states: "Overall, there would be little alteration to the appearance of the site and the development." Further into the document it states: "the site will be completely redeveloped." Much is made of agreeing to conditions but there has been no compliance to the original condition that the site should be returned to agricultural land if the previous owner and dependents left the site.

Members note the Highway comments and the fact that great reliance is placed on documentation which is 11 years old. This is a straight stretch of road with the national 60mph speed limit and the new entrance is to be introduced in close proximity to two existing entrances.

It is noted that MDDC Public Health has no objection but it is not clear that they have taken into account the extensive poultry pens, potential manure stores and flies all of which will be in close proximity to an adjoining property.

The Design and Access Statement refers to requirements of a previous policy which has now been replaced by The Mid Devon Local Plan 2013 - 2033 which was adopted in July 2020 and it is on these policies that considerations have been made which lead to the objection and recommendation for refusal of this application.

#### Policy S 1

g) Delivering a wide choice of high quality homes through a diverse housing mix and by meeting the housing needs of all sectors of the community including the provision of accessible housing for the elderly and disabled, those wishing to build their own home, affordable housing and gypsy and traveller pitches.

Earlier comment has been made as to substantiating the claim for the applicants being gypsies/travellers.

#### Policy S 3

e) A five year supply of gypsy and traveller pitches will be allocated on deliverable sites within Mid Devon to ensure that the predicted need for traveller sites will be met. A further supply of developable sites or broad locations for growth will be identified equivalent to a further ten years of predicted growth. The Housing Authority will seek to provide a public site for gypsy and traveller pitches within Mid Devon, subject to the availability of funding.

2.31 As set out in the Government statement 'Planning policy for traveller sites' the government's aim is to ensure fair and equal treatment for gypsies and travellers in a way that facilitates the traditional and nomadic way of life of travellers while respecting the interests of the settled community. To achieve this aim the statement indicates that working collaboratively local planning authorities should make their own assessment of need for traveller sites and identify a five year supply of deliverable sites with a further ten year supply of developable sites or broad locations for growth on top of this.

Further advice is contained later in the paragraph:

The need for gypsy and traveller pitches will be accommodated by pitches within larger housing sites, for example at Tiverton Eastern Urban Extension, North West Cullompton, East Cullompton and Pedlerspool in Crediton. The Council's preferred approach is for on-site provision as part of

larger housing proposals TIV1, CU1, CU7 and CRE5. Provision off-site will only be accepted where it is demonstrated that provision on a different site would achieve an acceptable outcome for Gypsies and Travellers as described in Policy DM7. Where such an acceptable outcome can be demonstrated, off-site provision must meet the requirements of Policy DM7, and a mechanism must be put in place to ensure that the pitches are delivered.

It is submitted that the location of this application site does not fit into this policy as it is far removed from any of the planned sites. It should be noted that this will be a privately owned site and not for public use.

#### Policy S14 Countryside

Development outside the settlements defined by Policies S10-S13 will preserve and where possible enhance the character, appearance and biodiversity of the countryside while promoting sustainable diversification of the rural economy. Detailed development management policies will permit agricultural and other appropriate rural uses, subject to the following criteria:

a) Affordable and low cost housing to meet local needs, gypsy and traveller accommodation, residential conversion of appropriate existing buildings, replacement dwellings, housing essential to accommodate a rural worker and accommodation ancillary to a dwelling;

Paragraph 2.82 contains the following: National policy requires that new sites for travellers should be limited in open countryside that is away from existing settlements or outside areas allocated in the development plan. In certain circumstances the development of such sites outside of settlement limits will be appropriate, providing it can meet the criteria set out within Policy DM7 (gypsy and traveller accommodation).

Members are of the view that this site is in open countryside and not within areas identified in the plan and it does not meet the criteria of Policy DM7. It does not comply with National Policy which requires new sites for travellers to be limited in open countryside that is away from existing settlements or outside of areas allocated in the development plan. It will not preserve and where possible enhance the character, appearance and biodiversity of the countryside.

#### Policy DM7 Traveller sites

##### 1. Planning applications for Pitches and Plots

Planning applications for gypsy and traveller pitches, or plots for travelling showpeople, will be permitted where:

a) Suitable onsite facilities will be provided including space for children's play;

b) The proposal will have suitable environmental quality for residents including non-isolating boundary treatments; and

c) The site will not cause unacceptable landscape or ecological impact and is not located in an area at high risk of flooding;

d) Occupation will be limited to those who meet the Government's published definition of gypsies and travellers, including travelling showpeople or their dependents; and

e) Safe and convenient access to local facilities is provided.

Sites with associated employment or storage elements will be permitted where there is specific justification and the location, scale, and nature of the proposed development will not have harmful impacts on local amenity or the local environment. Gypsy and traveller accommodation may be included as part of the affordable housing requirement.

## 2. Provision on allocated sites

Gypsy and Traveller pitches on allocated sites (sought by Policies TIV1, CU1, CU7 or CRE5) should be provided on site unless it is demonstrated that off-site provision will achieve an acceptable outcome for Gypsies and Travellers taking into account:

- i) Pitch numbers
- ii) Site facilities;
- iii) Accessibility to services, including health and education;
- iv) Early delivery of serviced pitches or plots which are available for occupation; and
- v) The provision of an effective mechanism for delivery.

Such sites must also meet the requirements of Part 1 of Policy DM7 above.

4.28 To ensure that sites will meet the needs of the travelling communities and the settled community a criteria based policy will be operated as set out above to determine applications for traveller sites. In order to ensure that users of sites will have access to facilities, national policy indicates that local planning authorities should very strictly limit new traveller site development in countryside that is away from existing settlements or outside allocations in the development plan. Sites will therefore only be permitted where facilities will be accessible without recourse to a car either by walking, cycling or utilising public transport. However, sites must also be in locations where the local environment is of satisfactory quality, so locations adjacent to noisy or polluting land uses or in areas of floodplain will not be suitable.

Members have concerns as to potential flooding risk from surface water and nearby water courses and ponds. The adjoining property has experience of flooding and this site could aggravate that.

The site does not have safe and convenient access to local facilities. There is no footpath on the main road leading to either Willand or Uffculme. There is no street lighting and the road is subject of the national speed limit. The bus service is very limited and so most journeys to access facilities will have to be by motor vehicle.

The site is very close to the settlement of Selgars House and Selgars Mill and some elements of it overlook windows in Selgars House. The poultry cages etc. are very close to the adjoining property. The site is also visible from the road.

There are so many conflicts of information and areas of noncompliance with policy that this application should be refused. Reliance on dealing with issues by way of condition would appear to be inappropriate in the light of experience to date.

**18/03/2021-** Willand Parish Council discussed this application at a special meeting of the Planning Committee on 18 March 2021. It was the unanimous decision of the committee that it should maintain its objection to this application and firmly recommend refusal.

The representations made in the response by the Parish Council dated 1 February 2021 to the original retrospective planning application are still considered relevant and should be taken, in full, as being part of this latest response.

Members are concerned that the application and updated/resubmitted papers do not contain sufficient and clear information with regard to a number of aspects. Inconsistencies and misleading information from the original application has not been addressed thereby inviting consultation on incomplete information.

The continued reference to the use of or amendment to conditions to deal with any issues does not give confidence of enforceability particularly when balanced against the management and development of the site thus far.

Status of Applicant.

The status of the applicant to substantiate the description of being a gypsy or traveller family has still not been established. The Parish Councillors are aware of information that the applicant has an established business and personal address elsewhere which is suggested to have been a permanent address and not substantiating a nomadic lifestyle.

Land ownership.

Land ownership details are still not clarified on the application form certificate and Land Registry records appear to still show the land being registered to the previous owner.

Block Plan

The revised block plan is misleading in that it gives a false impression with large areas of green when a different picture would be conveyed if the roadway and the areas for hard standing were clearly identified to scale and in a different colour. It does convey the extent of the original, now unapproved site area, and shows how considerably large and intrusive the new site will be on the countryside. The substantive and large area of poultry cages are not shown and are still not part of the application yet they too add to the excessive visual adverse impact of the application if approved.

It is suggested that the entrance gateway is not sufficiently distant from the main road to allow a lorry towing a caravan to completely clear the roadway. There is no evidence to show that there is any turning area sufficient to turn a lorry and caravan to ensure that vehicles can enter and leave the site in forward gear.

Foul and Surface Water drainage

The revised application shows that there will be five package treatment plants but there is no evidence to show why the site, if approved, cannot be connected to mains sewers. It is not considered that suitable and proven percolation tests have been carried out to show that the



ground can cope with soakaways that will cater for the substantive area of proposed hard standing and new roadway. The ground falls towards Selgars House and Mill where there is a water course and ponds/lakes. This presents a potential danger for flooding or pollution from the site.

#### Landscape and Environmental impact

It is clear that the development of this site is already having an adverse and harmful environmental impact on the visual amenity of the countryside. The closed board fencing along the boundary with Selgars House is not conducive to countryside being more of an urban amenity. The proposed planting of non-native trees which will take a considerable time to establish screening should not be acceptable at this location and will further draw attention to this site not being conducive and integrated into the area.

The proposed lighting is more in keeping with an urban housing estate than somewhere in open countryside. This will have a potential adverse impact on wildlife, particularly night hunters/foragers. There does not appear to be an up to date or relevant wildlife study.

#### Conclusion.

There is insufficient information for this application to be properly considered or approved. Because of this any consultees are responding to an incomplete application and unclear information.

The application in respect of this unapproved development is already having a harmful impact on occupiers of adjoining properties and the visual amenity of the landscape and countryside.

The application is in open countryside and is not compliant with policies in the NPPF or the MDDC Local Plan.

The application should be refused and the site restored to open countryside in accord with previous decisions.

**UFFCULME PARISH COUNCIL - 08/02/2021** - Uffculme Parish Council opposes this application and recommends the Officer Refuse permission.

The Council is aware of the history of the site and the previous permission granted. We understand that permission given under a previous application for the residence of one particular family on the site would be revoked to return the land to agricultural land when the site was vacated by the previous owner. Therefore we understand that this site should, in its entirety, be returned to agricultural land.

The Council has strong concerns that the current owner shows no respect for proper planning process and or conditions as they have carried out extensive works on the site without the correct permissions - we appreciate the new owner may not have been in receipt of all of the details regarding the site and previous permissions, however, now that they are aware all development should have been halted.

In the recently approved Local Plan there has been a designated sites for the gypsy and traveller community and we would expect the local planning authority to continue with the allocated sites within the new plan, rather than create new sites.

The council has concerns over the very poor access to the site, especially given the very large vehicles that have been noted on site.

Finally, this application was first brought to the attention of Uffculme Parish Council by concerned residents. The local planning authority did not initially consult Uffculme on this application.

**08/06/2021-** The Parish Council opposes this application.

The previous submission made stands, even though alternative plans and details have been provided.

The Council has concerns over the sewerage plans given that the site is on a floodplain and whether all expected avenues have been explored adequately in respect of mains sewerage.

The Council has concerns over the impact of heavy plant being kept on site and whether the necessary security of this would cause issue in respect of lighting and the impact of the site being seen from neighbouring AONB's.

The land should be returned top Agricultural land as set out in the previous temporary planning permission.

Uffculme Parish Council wholeheartedly supports Halberton Parish in opposing this application.

**HIGHWAY AUTHORITY – 20/01/2021-** The site is accessed off the B3440 County Route which is restricted to 60 MPH. The number of personal injury collisions which have been reported to the police in this area between 01/01/2015 and 31/12/2019 is one slight accident in 2016.

It is considered that an access can be achieved with suitable visibility, taking into account estimated speeds at this location, it is not considered that the impact will be severe or that there will be a safety concern with the proposal. The County Highway Authority agree with the Technical Note provided with this application and the previous comments made by Devon County Council.

Therefore the Highway Authority has no objections to this application

Recommendation:

THE HEAD OF PLANNING, TRANSPORTATION AND ENVIRONMENT, ON BEHALF OF  
DEVON COUNTY COUNCIL, AS LOCAL HIGHWAY AUTHORITY,

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. Visibility splays shall be provided, laid out and maintained for that purpose at the site access where the visibility splays provide intervisibility between any points on the X and Y axes at a height of 600mm above the adjacent carriageway level and the distance back from the nearer edge of the carriageway of the public highway (identified as X) shall be 2.4 metres and the visibility distances along the nearer edge of the carriageway of the public highway (identified as Y) shall be 215 metres in both directions.

REASON: To provide adequate visibility from and of emerging vehicles.

3. No development shall take place until details of the layout and construction of the access have been submitted to and approved in writing by the County Planning Authority. The approved details shall be implemented before the development is brought into use.

REASON: To ensure the layout and construction of the access is safe and suitable

4. The site access road shall be widened and maintained thereafter to not less than 6 metres for the first 10 metres back from its junction with the public highway and shall be provided with 10 metre kerb radii at the junction

REASON: To minimise congestion of the access

**16/03/2021-** The Highway Authority has no further comments to make on this application.

## **PUBLIC HEALTH - 18/01/2021**

Contaminated Land Condition - Contamination investigation and remediation strategy Info added under comments 14.1.21

Air Quality No comments 4.1.21

Environmental Permitting No objection to this proposal 04.01.21

Drainage No comments 4.1.21

Noise & other nuisances No comments 4.1.21

Housing Standards No comment 18/1/21

Licensing This will require a licence please contact licensing via [licensing@middevon.gov.uk](mailto:licensing@middevon.gov.uk) for further information. 14.01.21

Food Hygiene No comments 04.01.21

Private Water Supplies If a private supply is to be used by more than one property or has a commercial function, The Private Water Supply (England) Regulations 2016 as amended will apply. A risk assessment and sampling regime will be necessary. The supply must not be used until the Local Authority (Mid Devon District Council) is satisfied that the supply does not constitute a potential danger to human health, including single domestic use. You must also register with the Local Authority (Mid Devon District Council) any private water supply. Failure to do so may result in a Section 85 Notice, with which failure to comply is an offence.

Please contact Public Health at Mid Devon District Council on completion of proposal. IF MAINS WATER IS TO BE USED, WOULD HAVE NO COMMENT 04.01.21

Health and Safety No comments 04.01.21

Condition - Contamination investigation and remediation strategy

No development approved by this planning permission shall commence until a remediation strategy to deal with the risks associated with contamination of the site in respect of the development hereby permitted, has been submitted to, and approved in writing by, the local planning authority. This strategy will include the following components:

1. A preliminary risk assessment which has identified:

I. all previous uses

II. potential contaminants associated with those uses

III. a conceptual model of the site indicating sources, pathways and receptors

IV. potentially unacceptable risks arising from contamination at the site

2. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off-site.

3. The results of the site investigation and the detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete. Any changes to these components require the written consent of the local planning authority. The scheme shall be implemented as approved.

5. In the event that unexpected contamination is found at any time during the approved development works that was not previously identified, the findings must be reported in writing immediately to the Local Planning Authority. A new investigation and risk assessment must be undertaken in accordance with the requirements of condition 1 & 2 and where remediation is necessary a new remediation scheme must be prepared in accordance with the requirements of condition 3. This must be subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification plan must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 4.

6. Where long term monitoring and maintenance has been identified as necessary, a monitoring and maintenance scheme to include monitoring the long-term effectiveness of the proposed

remediation over a period to be agreed with the LPA, and the provision of plans on the same must be prepared, both of which will be subject to the approval in writing of the Local Planning Authority. Following completion of the measures identified in that scheme and when the remediation objectives have been achieved, reports that demonstrate the effectiveness of the monitoring and maintenance carried out must be produced, and submitted to the Local Planning Authority. This must be conducted in accordance with DEFRA and the Environment Agency Land Contamination Risk Management (LCRM).

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land, together with those to controlled waters, property and ecological systems, are minimised and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

### **03/03/2021 - additional comments**

Contaminated Land: There is potential for some historic contamination on this site and therefore a Stage 1 contaminated land assessment should be carried out prior to determination. If the results of this indicate a concern then the following condition should be included in any approval:

Condition - Contamination investigation and remediation strategy required 14.1.21

Drainage: There is a criteria for foul drainage set by the EA and if the mains is within a certain distance of the curtilage the applicant must connect to it. The formula for this is 30m x the number of units, in this case 30 x 6 = 180m, or 30 x 7 = 210m if they include the original unit (which they should do). The EA are requiring this because they want to reduce the number of package or private sewage treatment systems in order to protect the water environment. On this site people living nearby have confirmed that the ground is wet and the water table high so it is unlikely that discharging cleaned water via a land drainage system will be practicable, and the property next door seems to have suffered from surface water flooding originating from this site in the past. The percolation test, required if the mains sewer is too far away, should therefore be carried out before the application is determined. There are plenty of local consultants who will do these and they are working during the covid restrictions. Another reason for a mains connection on sites for travellers is that the occupiers may continually change so often no one takes responsibility for managing the private system, therefore increasing the risk of pollution sometime in the future. The current tank requires emptying every 6 months or so but the increase in numbers that 6 additional units could result in (up to 24 people) will substantially increase the volume of flow into this tank, mainly from washing machine and other ablution water. The cesspit would therefore need emptying much more frequently and this will quickly become difficult to manage. So if there is a main sewer within 180 210m the applicant should be required to connect to it and therefore would not need to go to the expense of getting the percolation tests done and a quote for a PTP. They have filled in the foul drainage form but their answers to the questions are contradictory. South West Water will be able to confirm to the applicant where the nearest main sewer pipe is. 2.2.21

Noise & other nuisances:

Noise

It appears that there are a large number of chickens being kept on the site for business purposes. There should be no, or few, cockerels but there is potential for noise, smell and flies to affect residents both on and off the site. The poultry enterprise needs to be registered with Defra so perhaps the applicant could provide more details of this so that we can determine whether the potential for nuisance is unreasonable and likely to impact on new and off-site residents.

Lighting

The proposed lighting columns using a carriage lamp type bulb holder with led lights are likely to cause local light pollution. The columns are plastic so not substantial enough for long term use. A more suitable system would be low height bollard type lighting, or if columns are used the bulb holder requires shielding and should incorporate a yellow filter so that upwards and lateral light pollution is avoided. 2.2.21

**05/05/2021-** Thank you for the updated information regarding the availability of a foul public sewer in proximity to this site. The requirement is to connect to a foul sewer if there is one within 180m (6 x 30m) of the site and SWW have now advised that the trunk main showing in the main road is not taking foul sewage. Therefore the only option is a private treatment system. We are very concerned about introducing multiple package treatment plants on this site, particularly as percolation testing by a drainage engineer has not been carried out and no information about the groundwater has been provided. It is clear from the presence of two very large ponds and the mill stream close by that the water table is likely to be high in this area; there is therefore a high risk of contamination. Package treatment plants cannot be located close to residential properties, and there must also be proper provision for a soakaway or drainage field in an appropriate location. We first requested more detailed clarification of the arrangements for a sustainable foul drainage system in our original comments in February 2021 and in the absence of this we do not consider that satisfactory provision has been made for foul drainage and would not be able to support any approval at this time.

**03/08/2021-** EHO final comments on proposed foul water treatment system. I have considered the information provided by the applicant and his contractor on 2<sup>nd</sup> August regarding the proposed package treatment plant. I have been to the site and seen where this will be located. There are existing ditches along both the east and west boundaries of the land and it is proposed to discharge the cleaned water into one of these ditches (both of which are usually dry). The ditches then run onto a surface water feature but only in times of heavy rainfall. Therefore cleaned water discharged into them is likely to either soak away or flow away as is usual in these systems. We therefore have no concerns relating to this proposal and recommend that the foul drainage scheme as designed is conditioned in any approval. We have no outstanding environmental health concerns in relation to any of the other matters in the email from the agent

**DCC- Policy and Project Coordinator (Vulnerable and Travelling Communities)-**

Thank you for your letter relating to the above. I am happy to make the following observations in line with National and County Policy, and observations following a site visit to the above location with the applicant on 21<sup>st</sup> July 2021.

Devon has only three local authority Gypsy Traveller sites: Sowton, Exeter; this site is a long-term residential site managed by Elim Housing, which holds a waiting list. Broadclyst, East Devon is managed by Elim Housing is leased by the County Council and offering new pitches are governed by the terms set by the landowner. Haldon, Teignbridge offers the only pitches for those identifying as New Travellers and is managed by Teign Housing.

Whilst accommodation for the settled community is increasing in the South West there is still little provision for Gypsy and Traveller families. There are no agreed/emergency or transit sites in Devon and most of the traditional stopping places have been blocked off or developed for other purposes. Due to this, it is becoming ever more essential for Gypsy and Traveller families to have an authorised stable base from which they may access services such as Health and Education, that the rest of us may take for granted. It also provides the security to travel for economic purpose, knowing that there is an authorised base on return.

I met with Mr and Mrs Dolan and spoke at length about their travelling patterns and history, I can confirm that they also intend to travel for economic purpose in the future and use this private family site as a base, from which to access education and welfare services in between travelling. They meet the definition of Gypsy Traveller for planning purposes and their application should be treated as such. There is a need within the family for 3 extra pitches and this will provide further

pitches for their family who now have families of their own. It is increasingly difficult for this community to go through the planning process without resentment or opposition from surrounding neighbours and community; a lot of this is steeped in the perception of what a Gypsy or a Traveller is, rather than who they are. This family is willing to work with the local authority to overcome any planning issue that might come up and I hope that this be taken into consideration at decision stage. The Communities Team supports the Dolan's in their application.

Small private sites continue to be the best option for local planning and housing authorities in relation to accommodation for Gypsies and Travellers. Meeting this need in Devon is important if the number of unauthorised encampments and unauthorised developments are to reduce across the county, at the same time it allows local planning authorities to fulfil their responsibility to meet the accommodation need alongside other communities in Devon.

The last time a needs assessment was carried out in this local authority area was in 2015. At that point, formulas and techniques were used by an out of county consultancy firm who didn't have the local knowledge and connection to the communities they were making assessments on at that time; it is my opinion working in this role for over 17 years, that the validity of figures being relied on for 2021 just isn't reliable enough to satisfy the need that plainly exists with this family. So, whilst on paper it could be said that the land supply for Gypsy Traveller pitches are being met up to 2024, in reality, it has to be asked, how many of those pitches are going to be deliverable and usable in that time frame? When there is already in existence a site which could be extended by this family, who are willing to work sympathetically with the local authority.

I would urge the decision makers for this application to also consider that if this is refused, not only would the 3 extra pitches not be provided, but there will also be a loss of 3 pitches in the process; this would be such a shame considering the site has been in existence as a Gypsy Travellers site for decades; with so few pitches being granted for this community in comparison with more general housing across the district area.

The County Council has a range of responsibilities in planning matters and, on education, health and welfare grounds this application is supported, recognising the lack of pitches available on authorised sites within Devon.

**SOUTH WEST WATER- 12/03/2021-** Following receipt of a Consultation Request for the above application, South West Water confirm that we hold no objection.

## **REPRESENTATIONS**

At the time of writing this report 22 letters of objection have been received and 6 letters of support, the key issues are summarised below;

1. The council should require evidence of the nomadic lifestyle of the family
2. The scale is too large for the area
3. The proposal would be harmful to the character and appearance of the area by the degree of urbanisation, scale and density
4. The proposed semi-permanent chalets do not match the aesthetic of other buildings in the area or heritage. Surrounding buildings are two storey stone and slate.
5. The roof pitch of surrounding buildings is around 35 degrees, the proposed are flat or negligible incline
6. The countryside in this area is being rapidly eroded e.g. Through expansion of Hitchcocks and Mid Devon Business parks and development at Junction 27
7. The development is visible from the public highway

8. The chalets have poor insulation standards and are not expected to meet sustainability targets
9. Additional use of the driveway by the applicants has already caused big problems in the means by which other residents join the busy public highway
10. The proposed new access would add another access route onto an already dangerous road
11. The application does not relinquish access to the shared driveway, despite the new access proposed
12. There have been two serious accidents and one slight along this stretch of road
13. The grass banks along the lane have been driven on and littered
14. The hardstanding poses an additional risk for surrounding properties
15. Poultry houses have been constructed on site, these are not mentioned in the application
16. The previous permission required the land to be returned to agricultural, this should be enforced
17. Permission for further dwellings was previously refused
18. The applicant has continued with intentional unauthorised development on the site
19. The applicant removed a large proportion of the site's hedgerow and trees without conducting a wildlife report
20. The number of units proposed would dwarf the population at Selgars Mill/ House, change the atmosphere, increase sound pollution and increase pressure on local resources
21. It is unclear why there is a need for doubling the capacity of what is already there
22. The application falls outside the local plan
23. The applicant fails to fit the definition of traveller for planning purposes
24. The needs based argument is unfounded in this application
25. The applicant is the owner of a site in Durham that was granted permission for up to six caravans for gypsy and travellers
26. The development would result in damage to the environment both in terms of local residences and the need to preserve a 'green corridor' between Willand and Uffculme
27. The development dominates the neighbouring properties
28. The existing unauthorised mobile homes have very bright external lights that impact amenities of neighbours and biodiversity
29. The development negatively impacts neighbouring businesses at Selgars Mill and threatens their viability
30. The development is not appropriate in the countryside
31. The layout does not make provision for children's play or even modest garden areas
32. The site does not have an existing watercourse as indicated on the FDA1 form. The wet clay soil is not suitable for soakaway systems. No percolation tests are provided.
33. Concerns regarding increased risk of flooding to neighbouring properties
34. There have been increased incidents of trespassing from people from Pleasant Streams
35. The community burn plastic and other industrial waste on a daily basis which brings toxic fumes to Selgars Mill
36. The dwellings would overlook neighbouring properties
37. The site does not offer safe and convenient access to local facilities
38. The site was never intended to become a permanent gypsy and traveller site
39. Impacts to ecology have not been considered

#### Support comments;

- It is better that we pass these sites and there are more legal sites available than us not having enough sites in the area and force gypsy and travellers into living illegally and causing greater disruption
- The proposal would provide homes for five families in a community
- Everyone has a right to a home
- The encampment is thoughtfully placed



- Pleasant Streams has been a gypsy and traveller site for over 40 years, how is someone else living there different to someone buying a house
- Selgars Mill is now home to multiple families and business so what is the difference in having multiple families here
- The proposal would benefit the community

## **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

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

- 1. Policy and principal of development**
- 2. Highway and access**
- 3. Impact to the character and appearance of the area**
- 4. Design and amenities of future occupiers**
- 5. Impact to the amenities of neighbouring occupiers**
- 6. Flood risk and drainage**
- 7. Ecology and biodiversity**
- 8. Other issues**

### **1. Policy and principle of development**

Policy S1 of the Mid Devon Local Plan 2013- 2033 requires development to support the creation of sustainable communities through various priorities including a development focus at the larger towns; promoting sustainable transport by reducing the need to travel by car; by meeting the needs of all sectors of the community including gypsy and traveller pitches; requiring good sustainable design; meeting the challenge of climate change and managing flood risk; conserving and enhancing the natural environment and minimising impacts to biodiversity and geodiversity.

Policy S3 sets out that a five year supply of gypsy and traveller pitches will be allocated on deliverable sites within Mid Devon to ensure that the predicted need for traveller sites will be met. A further supply of developable sites or broad locations for growth will be identified equivalent to ten years of predicted growth. The Housing Authority will seek to provide a public site for gypsy and traveller pitches within Mid Devon, subject to the availability of funding.

Uffculme and Willand are both recognised as villages suitable for limited development within their defined settlement limits. However the site is located outside the settlement limits of both villages and in a countryside location where policy S14 states that development will preserve and where possible enhance the character, appearance and biodiversity of the countryside while promoting sustainable diversification of the rural economy. It states that detailed development management policies will permit agricultural and other appropriate rural uses including gypsy and traveller accommodation. Policy DM7 relates to traveller pitches and states;

**1. Planning applications for Pitches and Plots Planning applications for gypsy and traveller pitches, or plots for travelling showpeople, will be permitted where:**

- a) Suitable onsite facilities will be provided including space for children's play;**
- b) The proposal will have suitable environmental quality for residents including non-isolating boundary treatments; and**
- c) The site will not cause unacceptable landscape or ecological impact and is not located in an area at high risk of flooding;**
- d) Occupation will be limited to those who meet the Government's published definition of gypsies and travellers, including travelling showpeople or their dependents; and**
- e) Safe and convenient access to local facilities is provided.**

**Sites with associated employment or storage elements will be permitted where there is specific justification and the location, scale, and nature of the proposed development will not have harmful impacts on local amenity or the local environment. Gypsy and traveller accommodation may be included as part of the affordable housing requirement.**

**2. Provision on allocated sites Gypsy and Traveller pitches on allocated sites (sought by Policies TIV1, CU1, CU7 or CRE5) should be provided on site unless it is demonstrated that off-site provision will achieve an acceptable outcome for Gypsies and Travellers taking into account: i) Pitch numbers ii) Site facilities; iii) Accessibility to services, including health and education; iv) Early delivery of serviced pitches or plots which are available for occupation; and v) The provision of an effective mechanism for delivery. Such sites must also meet the requirements of Part 1 of Policy DM7 above.**

The NPPF refers to the Government's planning policy for traveller sites (PPTS) which sets out the government's approach to planning for traveller sites and is a material consideration in planning decisions. In assessing applications for traveller sites the PPTS sets out that;

*Local planning authorities should consider the following issues amongst other relevant matters when considering planning applications for traveller sites:*

- a) the existing level of local provision and need for sites*
- b) the availability (or lack) of alternative accommodation for the applicants*
- c) other personal circumstances of the applicant*
- d) that the locally specific criteria used to guide the allocation of sites in plans or which form the policy where there is no identified need for pitches/plots should be used to assess applications that may come forward on unallocated sites*
- e) that they should determine applications for sites from any travellers and not just those with local connections*

*Local planning authorities should very strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan. Local planning authorities should ensure that sites in rural areas respect the scale of, and do not dominate, the nearest settled community, and avoid placing an undue pressure on the local infrastructure.*

*When considering applications, local planning authorities should attach weight to the following matters:*

- a) effective use of previously developed (brownfield), untidy or derelict land*
- b) sites being well planned or soft landscaped in such a way as to positively enhance the environment and increase its openness*
- c) promoting opportunities for healthy lifestyles, such as ensuring adequate landscaping and play areas for children*
- d) not enclosing a site with so much hard landscaping, high walls or fences, that the impression may be given that the site and its occupants are deliberately isolated from the rest of the community*

*27.If a local planning authority cannot demonstrate an up-to-date 5 year supply of deliverable sites, this should be a significant material consideration in any subsequent planning decision when considering applications for the grant of temporary planning permission. The exception is where the proposal is on land designated as Green Belt; sites protected under the Birds and Habitats Directives and / or sites designated as Sites of Special Scientific Interest; Local Green Space, an Area of Outstanding Natural Beauty, or within a National Park (or the Broads).*

The Council's land supply records for pitches indicates there are 15 pitches which have been delivered or which are consented and deliverable in the period 2019 – 2024, which meets the

GTAA requirement for that period of 6 and the shortfall of 9 from the previous period. However, this alone would not necessarily mean that other sites cannot be considered. The GTAA is not considered to be an up to date reflection of household needs including households held on the Council's waiting list (and these may have changed since the GTAA was undertaken in 2015). There is also concern with regard to the deliverability of some of the pitches in particular those secured through the outline planning permission for residential development at Creedy Bridge, Crediton (17/00348/MOUT). The condition on that permission is such that the applicant has 5 years from the date of commencement of development on site in which to submit reserved matters for On-Site Travellers Pitches. As such the delivery of these pitches could take over 5 years to be implemented. The DCC response also questions whether the supply of pitches is deliverable. A public site has not been provided in the district and the Council is not able to identify any alternative available site to meet the residential needs of the applicant.

The status of the applicant's and intended occupiers as gypsy and travellers has been raised within representations received. For the purposes of this planning policy "gypsies and travellers" means: Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily, but excluding members of an organised group of travelling showpeople or circus people travelling together as such. In determining whether persons are "gypsies and travellers" for the purposes of this planning policy, consideration should be given to the following issues amongst other relevant matters: a) whether they previously led a nomadic habit of life b) the reasons for ceasing their nomadic habit of life c) whether there is an intention of living a nomadic habit of life in the future, and if so, how soon and in what circumstances.

The DCC Policy and Project Coordinator (Vulnerable and Travelling Communities) Officer has been to site and spoke to the applicant at length about their travelling patterns and history, and has provided a response to the application which confirms that they consider that the applicant meets the definition of Gypsy Traveller for planning purposes and their application should be treated as such (see consultation response above). There is a need within the family for 3 extra pitches and this will provide further pitches for their family who now have families of their own.

The site is located in a countryside location. Concerns have been raised in respect of the accessibility of services by sustainable means. The sustainability and accessibility of the site has been considered in relation to previous applications. The assessment made at that time has been taken into account and further considered in light of the current situation and policy position. The application site lies approximately 0.9km from Uffculme and 1km from Willand. Uffculme has a number of services and facilities including primary and secondary schools, pub, church, post office, shop and Magelake Hall. Willand also provides a variety of services including primary school, village hall, churches, church hall, pub, football club, shop, post office, doctors surgery, pharmacy and hair dressers. There is no footpath along the length of the Class II road providing access from the site to Willand or Uffculme. The road is relatively straight with free and fast flowing traffic. There is a regular bus service in both directions and onwards travel to Cullompton and Tiverton is achievable.

At the time of the 11/01238/FULL the sustainability of the site and accessibility to local services was considered. The officer report states; "The provision of these bus services and the proximity of the site to both villages of Willand and Uffculme and beyond to the market town of Cullompton make the realistic availability of walking, cycling and using public transport to access local services high. [...] the proposed site is considered to be in a location which is accessible to other forms of transport rather than a location which are reliant on the private car". Whilst the appeal was dismissed, the Inspector also did not raise objection to the principle of development in this location.

At this time, in the context of current policy position, the guidance in the PPTS and NPPF, it is considered that the site location would provide safe and suitable access to local facilities in accordance with policy DM7.

The representations make the case that the site should be returned to agricultural use as that is what the previous permissions required once the occupation by the previous occupier was no longer required. The reasons for that condition relate to the policy position at that time which restricted residential development in the countryside but was justified by the “special needs for gypsy accommodation”. Notwithstanding the condition on the previous permissions, it would not prevent an application for planning permission being brought forward and which should be considered on its merits at this time in accordance with the relevant development plan and any other material considerations.

## **2. Highway and access**

Policy DM3 requires development to ensure safe access to the transport network. The application proposes a new access from Uffculme Road to the north. The proposed access is 7.3m wide and visibility splays are proposed of 2.4m by 215m. The existing access would be closed by planting.

The submitted transport technical note sets out that a development of 12 units on the site was previously considered and not refused on highway grounds. It considers that a 12m rigid vehicle would be able to enter and exit the proposed access and turn within the site. On this basis it considers that the proposed development is acceptable in terms of highway impacts.

The Highway Authority have confirmed they have no objection to the scheme subject to the provision of visibility splays of 215m in both directions. The Highway Authority are satisfied that visibility splays of 215m can be achieved and recommend that these are secured by condition.

There is sufficient room on site for the provision of parking in accordance with policy DM5.

Whilst concerns have been raised with regard to highway safety, having regard to the comments of the Highway Authority it is not considered that the proposal would result in any unacceptable adverse impacts in terms of highway safety or capacity issues. The proposal includes provision of additional hedgerow planting to block up the existing access which will reduce the level of movements along the private lane. This can be secured by condition.

## **3. Impact to the character and appearance of the area**

The application scheme proposes to provide the six pitches and associated access/ parking areas over a site area of approximately 6500sqm. The scheme partly uses an area at the south which has previously been used for gypsy and traveller occupation but significantly increases the site area further north and west. The site area is generally rectangular. It is bordered to the east by a substantial hedgebank with some tree planting, which borders the private lane to Selgars Mill/ Selgars House. The proposed scheme would impact the character and appearance of the site, particularly in terms of the change in character of the currently undeveloped area to the north as a result of the proposed hard surfacing and paraphernalia associated with the proposed residential use of the site. The proposed new access would also involve alterations to the existing northern boundary and open up views into the site from Uffculme Road. It is not disputed that the development will have an urbanising impact on this part of the countryside. The scheme proposes to enhance the planting along the northern boundary to infill any voids, the existing hedgerow to the east would be retained and additional native planting is proposed to infill the current access opening. A significant length of new native hedgerow on a bank is proposed to the east boundary

which is considered to provide an enhancement to the character and appearance of the area and would help to contain impacts of the development in views from the west. The existing large trees within the site are proposed to be retained and additional landscaping is proposed around the south west corner. The proposed landscaping to the site boundaries are considered to strike a suitable balance between safeguarding the character and appearance of the area and the amenities of neighbouring occupiers without resulting in an isolating impact for future occupiers.

The proposed lighting has been removed from the scheme and the applicant's agent has confirmed they do not intend to provide any external lighting on the site as part of the application scheme. It is considered necessary to control the use of external lighting by condition in the interests of the character and appearance of the area, the amenities of neighbouring properties and ecology interests.

The site is located in landscape character type 3E, Lowland Plains, the special characteristics of which include an arable landscape, agrarian character, notable estates and manor houses, intact orchards, wide open spaces with great landscape views, historic interest with archaeology and celtic settlements, roads following land contours and valued hedgerows with mature hardwood trees in hedgebanks.

The site is clearly located in a countryside location. Uffculme Road links Uffculme to Willand, the area surrounding the site is predominantly of rural nature. However between the villages of Uffculme and Willand there are some existing developments which to some extent have altered the character, appearance and visual amenities of the surrounding area, this includes substantial commercial developments at both Langlands and Hitchcocks Business parks.

Overall, whilst it is considered that the development would inevitably have an impact on the character and appearance of the site itself, it is considered that subject to appropriate conditions to secure appropriate landscaping and to control external lighting of the site, the impact would be acceptable. Having regard to the siting and topography of the site within its context, it is not considered that the proposed development would have a significant impact on the wider landscape of the countryside.

#### **4. Design and amenities of future occupiers**

The pitches are proposed to be sited in a linear arrangement. Each pitch includes two parking spaces and external space. Whilst there is limited designated garden areas, each pitch has reasonable external space and a grassed area. The layout is considered to provide an acceptable level of amenity for future occupiers and is not considered to result in overdevelopment of the site. Whilst concern has been raised regarding the proximity of the site to livestock it is noted that no objections have been raised on this basis by Public Health and it is considered that a suitable level of amenity would be achieved for occupiers.

Concerns are raised regarding the sustainability credentials of the mobile homes that would be occupied on site. However the insulation value of the mobile homes is not the only consideration in the sustainability of the scheme and overall the principle of the provision of gypsy and traveller pitches is considered to be sustainable in this location.

#### **5. Impact to the amenities of neighbouring occupiers**

Policy DM1 states that development should not have an unacceptably adverse impact on the privacy and amenity of the proposed or neighbouring properties or uses. Policy DM7 requires that applications for gypsy and traveller plots will not have harmful impacts on local amenity. The Governments PPTS also seeks to ensure the interests of the settled community are respected and

to reduce tensions between settled and traveller communities in planning decisions.

The nearest neighbouring residential property is located at Selgars House adjacent to the south boundary. Selgars Mill is located to the south east and shares the access drive. Selgars Cottages are located to the east. The nearest property to the west is approximately 280m distant.

Following discussions with the applicant's agent the scheme has been amended to remove pitch 6 from the south west corner of the site to reduce the impact to the amenities of occupiers of Selgars House. The location of pitch 6 as now currently proposed, is similar to the unit which has existed on the site under the previous permissions. As such and with the addition of obscure glazing to the windows on the south elevation it is not considered that there would be any significant adverse impacts in terms of loss of privacy or overlooking arising from the permanent siting of a pitch in that location.

Concerns have been raised regarding the impacts arising from the poultry unit that has been erected on the agricultural land adjacent to the application site. The development that has been undertaken in that part of the land does not form part of this application and can be dealt with through planning enforcement and Public Health as necessary.

The relocation of the access will reduce traffic movements along the private lane. Concerns in respect of flood risk and drainage implications are considered further below.

The Council's Public Health Team have not raised any objections in terms of noise or other nuisance. Overall, having regard to the siting, scale and design of the proposed development in its revised form, it is not considered that the proposed residential use would result in an unacceptable impact to the amenities of neighbouring occupiers and it is not considered that the scale of the proposal would dominate the nearest settled community.

## **6. Flood risk and drainage**

Policy S9 requires that development will sustain the distinctive quality, character and diversity of Mid Devon's environmental assets and minimise the impact of development on climate change through the provision of measures to reduce the risk of flooding to life and property, requiring sustainable drainage systems including provisions for future maintenance, guiding development to locations of lowest flood risk and avoiding an increase in flood risk elsewhere.

The site itself is located in flood zone 1. However the site is located in relatively close proximity to flood zones 2 and 3 to the south of the site as well as the mill leat and pond associated with Selgars Mill. The site area extends to approximately 0.65 hectares, of which a significant proportion is proposed to be hard surfaced to provide access, parking and surfaced areas to site the proposed mobile homes on each pitch. A small part of the site in the south east corner is understood to have been previously hard surfaced as part of the previous occupation (see planning history). The application proposes to manage surface water run off from the mobile home units to a soakaway in the agricultural field to the west. It is proposed that the access and turning areas will be formed of porous asphalt and the pitch areas will be lined and a golden flint shingle laid. The implications to drainage and flood risk have been discussed with the Lead Local Flood Authority who are satisfied that the proposal is not likely to result in increased flood risk elsewhere. Their advice is that the drainage implications from the site can be adequately managed by further details to be submitted by condition. At the time of writing this report officers are awaiting advice from the Lead Local Flood Authority as to the wording of this condition and this will be reported to members as an update.

## **7. Ecology and biodiversity**

Policy S1 requires development to minimise impacts on biodiversity and provide a net gain in biodiversity. Similarly policy S14 in relation to development in countryside locations requires development to preserve and where possible enhance biodiversity.

The applicant has submitted a preliminary ecological appraisal in support of the application. The hedgerows on the site were considered to provide opportunities for foraging and commuting bats, the local surroundings provide good foraging and commuting habitat that is largely unlit. The ecologist considers that the proposals are low impact in relation to bats as there will be no significant loss of habitat but that the development has potential to devalue and degrade boundary habitats through light spill. The scrub and hedgerow were considered to offer suitable nesting habitat to common and widespread urban species.

The report confirms that no further survey work is required at this time and makes recommendations for mitigation including a 2m protection zone around retained hedgerow habitat, precautionary measures in respect of any external lighting and the timing of works in relation to habitat removal (nesting birds). The application proposes the provision of approximately 110m of new native hedgerow planting and infill planting to existing hedgerows and therefore a significant net gain in the extent of hedgerow habitat can be secured. The ecologist also recommends that enhancements to biodiversity are achieved through the provision of three bird nesting boxes and two bat boxes should be installed on trees on the site. On the basis that the appropriate mitigation and enhancement measures are secured by condition it is considered that the proposed development is not likely to result in harm to protected species and a net gain in biodiversity can be achieved in accordance with policies S1 and S14 of the Mid Devon Local Plan and government advice in the NPPF.

## **8. Other issues**

Intentional unauthorised development: The representations suggest that the occupation of the site and ground works that have been carried out are intentional unauthorised development. Intentional unauthorised development was set out as a material consideration when determining retrospective planning applications from 31<sup>st</sup> August 2015. The policy statement does not define what intentional unauthorised development is, the explanation relates to developing land without prior authorisation prevents measures being taken to mitigate or limit harm. In this case the applicants have carried out some ground works and are occupying part of the site without planning permission. The actions that have been carried out have clearly caused friction with the local community. However in this case, it is considered that the unauthorised development have not prevented the proper application of planning policy and the impacts of the development are considered to be appropriately mitigated through the application scheme and details that can be secured by condition.

Contaminated land: The Council's Public Health team have advised that a contamination investigation and remediation strategy is required to ensure that risks from land contamination are suitably managed to prevent harm to future land users, neighbouring land, water and ecology. This is secured by condition.

EIA: Due to its scale, nature and location this development will not have significant effects on the environment and therefore is not considered to be EIA Development.

Public sector equality duty: In assessing this application the Council has had regard to the requirements of the public sector equalities duty within the Equalities Act to have due regard to the need to:

- a. eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act
- b. advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it
- c. foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

In respect of this application, the proposals relate to the provision of 6 traveller pitches for residential occupation by gypsy and travellers. The applicants share a protected characteristic of their race as gypsy and travellers which are not shared by the settled community who live in proximity to the site. Race is a protected characteristic identified by the Equalities Act 2010. The relationship between the traveller community and the settled community has been considered in the assessment of the application. The application is considered to be supportable in accordance with the development plan including policy DM7 which specifically relates to the provision of gypsy and traveller pitches. The LPA has worked with the applicants to revise the scheme to provide a policy supportable scheme and to achieve an acceptable impact to the settled community.

## **CONDITIONS**

1. The date of commencement of development shall be taken as 4<sup>th</sup> January 2021, the date the application was registered by the Local Planning Authority.
2. The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice.
3. Within 3 months of the date of this decision and prior to any further works being undertaken on site, there shall be submitted to and approved in writing by the Local Planning Authority, a phasing plan which shall include a programme of implementation of the approved scheme including the proposed access works, closing up of existing access, provision of drainage infrastructure and the landscaping (to be completed in accordance with details approved by condition 13). Thereafter the development shall be carried out in accordance with the approved phasing plan unless otherwise agreed in writing by the Local Planning Authority.
4. Prior to any further works being undertaken on site, a remediation strategy to deal with the risks associated with contamination of the site in respect of the development hereby permitted, shall be submitted to, and approved in writing by, the local planning authority. This strategy will include the following components:
  - a. A preliminary risk assessment which has identified:
    - I. all previous uses
    - II. potential contaminants associated with those uses
    - III. a conceptual model of the site indicating sources, pathways and receptors
    - IV. potentially unacceptable risks arising from contamination at the site
  - b. A site investigation scheme, based on (a) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off-site.



- c. The results of the site investigation and the detailed risk assessment referred to in (b) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
- d. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (c) are complete. Any changes to these components require the written consent of the local planning authority. The scheme shall be implemented as approved.

5. In the event that unexpected contamination is found at any time during the approved development works that was not previously identified, the findings must be reported in writing immediately to the Local Planning Authority. A new investigation and risk assessment must be undertaken in accordance with the requirements of condition 4 and where remediation is necessary a new remediation scheme must be prepared in accordance with the requirements of condition 4(c). This must be subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification plan must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 4(d).

6. Where long term monitoring and maintenance has been identified as necessary, a monitoring and maintenance scheme to include monitoring the long-term effectiveness of the proposed remediation over a period to be agreed with the LPA, and the provision of plans on the same must be prepared, both of which will be subject to the approval in writing of the Local Planning Authority. Following completion of the measures identified in that scheme and when the remediation objectives have been achieved, reports that demonstrate the effectiveness of the monitoring and maintenance carried out must be produced, and submitted to the Local Planning Authority. This must be conducted in accordance with DEFRA and the Environment Agency Land Contamination Risk Management (LCRM).

7. Prior to any further works being undertaken on site to implement the permission hereby approved 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.

8. No works relating to the formation of the new access shall take place until details of the layout and construction of the access have been submitted to and approved in writing by the County Planning Authority.

9. The site access road shall be widened and maintained thereafter to not less than 6 metres for the first 10 metres back from its junction with the public highway and shall be provided with 10 metre kerb radii at the junction.

10. Visibility splays shall be provided, laid out and maintained for that purpose at the site access where the visibility splays provide intervisibility between any points on the X and Y axes at a height of 600mm above the adjacent carriageway level and the distance back from the nearer edge of the carriageway of the public highway (identified as X) shall be 2.4 metres and the visibility distances along the nearer edge of the carriageway of the public highway (identified as Y) shall be 215 metres in both directions.

11. The retained hedgerow habitats on site shall be protected for the duration of the works on site by the installation of a protective fence details of which shall be submitted to, and approved in writing by, the Local Planning Authority prior to installation on site. The fence shall be installed at least 2m from the base of the retained hedgerows for the duration of the works on site.

12. The development hereby permitted allows for the provision of 6 pitches only. Occupiers of this site will need to comply with the definition of a gypsy or traveller, being persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily, but excluding members of an organised group of travelling showpeople or circus people travelling together as such.

13. No more than 6 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, as amended shall be stationed on the site at any time. Any caravans positioned on the site shall be capable of being lawfully moved on the public highway.

14. Within 3 months of the date of this decision, notwithstanding the information submitted, a scheme of hard and soft landscaping including details of a the proposed hedgerow planting and a hedgerow establishment and maintenance plan, shall be submitted to and approved in writing by the Local Planning Authority. All planting, seeding and turfing comprised within the approved scheme, including the proposed new hedgerow and 'additional planting' depicted on the approved plans, shall be carried out in accordance with the details and timing agreed in accordance with the phasing plan to be approved in accordance with condition 3. Any trees or plants, including existing specimens to be retained, which within a period of 5 years from completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next available planting season with others of a similar size and the same species.

15. Within 3 months of the date of this decision, there shall be submitted to and approved in writing by the Local Planning Authority details of the proposed foul drainage systems including arrangements for future maintenance. Only such approved systems shall be used for the management of foul drainage from the development hereby approved.

16. The development shall be undertaken in full accordance with the recommendations, mitigation and enhancement measures contained in the submitted preliminary ecological appraisal (Western Ecology, dated 3<sup>rd</sup> August 2021). The proposed enhancement measures as set out at section 7 of the report shall be provided within 6 months of the substantial completion of the development.

17. Prior to the installation of any exterior lighting on the site full details including design, siting and illumination-type shall be submitted to the Local Planning Authority for approval. Only lighting that has been approved in writing by the Local Planning Authority shall be installed and operational.

18. Within 6 months of the date of this decision, the windows within the south elevation of the caravan on pitch 6 shall be obscure glazed in accordance with details that shall have been submitted to and approved in writing by the Local Planning Authority. The obscure glazing shall be retained in perpetuity.

## **REASONS FOR CONDITIONS**

1. In order to establish a legal commencement date for the development to enable the development to be monitored by the Local Planning Authority.
2. For the avoidance of doubt and in the interests of proper planning.
3. To ensure the provision of access, drainage and landscaping features in a timely manner in relation to the provision of the residential pitches in order to safeguard the character and appearance of the area, the amenity of neighbouring occupiers in accordance with policies S14, DM1 and DM7 of the Mid Devon Local Plan 2013- 2033.
4. To ensure that risks from land contamination to the future users of the land and neighbouring land, together with those to controlled waters, property and ecological systems, are minimised and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.
5. To ensure that risks from land contamination to the future users of the land and neighbouring land, together with those to controlled waters, property and ecological systems, are minimised and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.
6. To ensure that risks from land contamination to the future users of the land and neighbouring land, together with those to controlled waters, property and ecological systems, are minimised and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.
7. In the interests of highway safety and the general amenity of the area.
8. To provide adequate visibility from and of emerging vehicles.

9. To ensure the layout and construction of the access is safe and suitable
10. To minimise congestion of the access
11. In the interests of the character and appearance of the area and biodiversity in accordance with policy S14 of the Mid Devon Local Plan 2013-2033.
12. For the avoidance of doubt and to outline the special circumstances for this development within a countryside location in line with Policy S14 of the Mid Devon Local Plan 2013-2033.
13. In order to protect the character, appearance and general amenity of the area of countryside in accordance with policy S14 of the Mid Devon Local Plan 2013-2033.
14. To ensure that the development makes a positive contribution to the character and amenity of the area in accordance with policy DM1 of the Mid Devon Local Plan 2013-2033.
15. To ensure foul drainage is appropriately managed in the interests of the environment and the amenities of neighbouring occupiers in accordance with policy DM1 of the Mid Devon Local Plan 2013-2033.
16. In the interests of nature conservation and in accordance with the guidance contained in the National Planning Policy Framework.
17. To safeguard the character and appearance of the area, the amenities of neighbouring occupiers and ecology in accordance with policies S14 and DM1 of the Mid Devon Local Plan 2013-2033.
18. In accordance with the details shown on the submitted block plan and to safeguard the amenities of neighbouring occupiers in accordance with policy DM1 of the Mid Devon Local Plan 2013-2033.

## **REASON FOR APPROVAL**

The proposed change of use of land for the provision of 6 permanent pitches for the use of gypsy and traveller family, formation of a new vehicular access, hardstanding and associated works is considered to be supportable in policy terms. It is not considered that the proposed development would result in significant harm to the character and appearance of the rural area subject to the imposition of planning conditions or detrimentally impact amenity of any neighbouring property. The proposed development is considered to be acceptable in terms of its impacts to highways, drainage and ecology. Overall it is considered that the proposal is supportable in accordance with policies S1, S3, S9, S14, DM1, DM3, DM4, DM5, DM7 of the Mid Devon Local Plan 2013- 2033 and government advice in the NPPF and Planning Policy for Traveller Sites.

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.

