

**Agenda Item**

Application No. 20/01458/FULL

Grid Ref: 295889 : 113746

Applicant: Mr Pradham

Location: Ashdowne Care Centre  
Ashdowne House  
Orkney Mews  
Tiverton

Proposal: Erection of single storey extension to Care Home

Date Valid: 18th September 2020



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

### **Reason for Report:**

At the Planning Committee meeting on 3<sup>rd</sup> November 2021, Members advised that they were minded to refuse the above application and invited an implications report for further consideration.

### **RECOMMENDATION(S)**

Grant planning permission subject to conditions.

### **Financial Implications:**

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

### **Legal Implications:**

The report identifies the risks in proceeding with an appeal based on the reasons given by the Committee on 3<sup>rd</sup> November 2021 – both in terms of outcome of an appeal and the risk of a costs decision. The Council will still need to prepare draft planning conditions for the appeal. External legal representation may be required if the appeal proceeds to a public inquiry. The applicant has already indicated that they plan to lodge an appeal should this planning application be refused.

### **Risk Assessment:**

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

## **1.0 INTRODUCTION:**

1.1 At the meeting on 3<sup>rd</sup> November 2021, Members indicated they were minded to refuse the application and therefore wished to defer the application for consideration of an implications report to consider reasons for refusal, with regard to:

- *Overdevelopment of the site and that the application did not comply with Local Plan policy DM5.*

## 2.0 **CONSIDERATION OF THE PROPOSED REASONS FOR REFUSAL:**

2.1 With regards to the concerns raised by Members at their previous meeting, your officers would advise as follows:

### 2.2 Overdevelopment of the site and that the application did not comply with Local Plan policy DM5

2.3 In considering the impact of the proposed development, Members discussed concerns that the existing care home had reached capacity and further development would lead to an increased demand for off-street parking, noting the current under provision of parking space serving the existing care centre, in respect to policy DM5, and ongoing parking issues along Orkney Mews.

2.4 Policy DM5 requires that new development of care homes should provide 1 car parking space per bedroom. In this case, there is a parking plan submitted in support of the application suggested that there were up to 15 spaces available within the existing car park, however with the presence of a portacabin serving as an office within the car park, this essentially leaves 12 parking spaces available, with Ashdowne Care Centre as a whole having 60 registered bed spaces. As a result of this under provision concerns were raised about previous proposals to extend the property and provide additional bedrooms. As a result, the proposal was amended to provide only additional ancillary space, as detailed within the application. As the proposed extension did not provide additional bed space, nor did it provide additional space that would lead to additional staff being employed, the Highway Authority withdrew their previous objection.

2.5 Notwithstanding the existing concerns regarding the under provision of parking within the carpark on site, and the pressure currently experienced in respect to off-street parking, in considering the proposal against policy DM5 it is necessary to consider whether the resulting development would lead to an increase in the need for parking provision. The proposals comprise the extension of the existing kitchen, reconfiguration of existing office and lobby, provision of a visiting pod and a new treatment room/store. By its very nature, the accommodation within the proposed extension is ancillary to the existing use of Pinnex Moor and therefore cannot be said to give rise to additional residents, or generate additional staff or the associated need for further parking space.

2.6 One of the concerns identified by Members was that by providing new facilities, such as the treatment room, there may be existing rooms within the care home that could then be made available to convert into bedrooms, which would be beyond the control of the Local Planning Authority. Having given this further consideration, a floor plan of Pinnex Moor Care Home was requested and provided. This indicates that all the rooms within the building are bedrooms, with the exception of the existing kitchen, office, lobby and store, which would be altered as part of this proposal. Additionally on the ground floor, there is a laundry room, dining room, lounge, garden room, wet room and resident room. It has been confirmed that the resident room is laid out for hairdressing. It is not likely

that any of these rooms would be considered surplus to provide additional bed space, as this would remove the only available amenity space for residents of Pinnex Moor. The resident room is a very small room of approximately 6 square metres. Current Care Quality Commission (CQC) requirements are that new bedrooms should be at least 12 square metres, meaning that this space is much too small to provide an additional bedroom. While it is not considered relevant to this planning application, the submitted plans do demonstrate that there is no additional capacity within Pinnex Moor for the provision of additional bed space, without providing a dedicated extension, which would require planning permission and be assessed on its own merits. In regard to the proposed extensions, Members will note that a condition is proposed to ensure that this accommodation cannot be converted into bedrooms without seeking planning permission either.

- 2.7 In considering that the proposed extension would not lead to an increase in resident or staff numbers, that there are no existing surplus rooms that could be converted into bedroom, and that the Highway Authority have removed their objection following the amendment of plans to omit additional bedrooms, your officers do not consider that there is sufficient demonstrable harm specifically relating to the proposed development to defend a refusal at appeal on the reason currently given.
- 2.8 In relation to costs applications, the Planning Practice Guidance (Appeals) advises that costs may be awarded where a party has behaved unreasonably; and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process. Unreasonable behaviour in the context of an application for an award of costs may be either:
- Procedural - relating to the process; or
  - Substantive - relating to the issues arising from the merits of the appeal
- 2.9 In respect to substantive matters, an example of unreasonable behaviour is given as:
- Failure to produce evidence to substantiate each reason for refusal on appeal.
- 2.10 It is the view of your officers that the proposed extension would not generate any need to provide additional parking provision, a view supported by the Highway Authority in the withdrawal of their previous objection. Unless Members are able to reasonably substantiate a reason for refusal on the grounds of non-compliance with Local Plan policy DM5, on the basis that the proposal will generate need for additional parking provision to be made, your officers would advise that the suggested reason for refusal would be very difficult to defend and that an award of costs is therefore considered to be a distinct possibility should a decision be made to refuse planning permission be followed by an appeal, and corresponding costs application.

### 3.0 **CONCLUSION**

- 3.1 Should Members resolve to refuse planning permission, they will need to be able to demonstrate that their concerns have been properly debated and cogently articulated in any final refusal reason.
- 4.2 The following refusal reason is suggested below covering the matters raised, however it is still your officers' advice that this would not be defensible, and there may be a risk of an award of costs, bearing in mind the lack of objection from the Highway Authority:
1. The proposed development would comprise over development of the site and an intensification in use of Pinnex Moor House, leading to increased levels of traffic. Taking into account the under provision of car parking facilities on site, and the restricted width of the public highway, this intensification of use will lead to increased likelihood of parking on the public highway, which would create a severe impact on the highway network. The development is therefore considered to be unacceptable and contrary to policies DM3 and DM5 of the Mid Devon Local Plan 2013-2033.

#### **Contact for any more information**

John Millar

#### **Background Papers**

Application file and previous committee reports

#### **File Reference**

20/01458/FULL

#### **Circulation of the Report**

Cllr Richard Chesterton

## **REPORT FROM PLANNING COMMITTEE – 03.11.21**

**APPLICATION NO: 20/01548/FULL**

### **MEMBER CALL-IN**

Called in by Cllr Ben Holdman, in order to consider the potential impact of the proposed development on highway matters and local amenity, particularly as a result of noise and disturbance for local residents.

### **RECOMMENDATION**

Grant permission subject to conditions

### **PROPOSED DEVELOPMENT**

Erection of single storey extension to care home.

The application relates to Ashdowne Care Centre, located within Orkney Mews, a residential part of Tiverton. The care centre comprises two units, Ashdowne House and Pinnex Moor House. The application is made to provide a single storey extension to the front of Pinnex Moor House, which would include a reconfigured lobby, incorporating an enclosed visiting pod, reconfigured office, enlarged kitchen and new treatment room and store. The proposed extension would be constructed using a mix of brick and rendered wall and slate roof to match existing.

NOTE: When this application was first submitted, it included a two-storey extension with additional bedrooms accommodation being provided. The plans have since been amended several times prior to the latest scheme, which omits the two-storey elements and all new bedrooms.

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

Site location plans  
Elevation and floor plans  
Wildlife trigger form  
Ecological impact appraisal  
Surface water drainage information

### **RELEVANT PLANNING HISTORY**

85/01438/FULL - PERMIT date 10th January 1986  
Change of use of Pinnex Moor House to Retirement Home for the Elderly  
85/01650/OUT - REFUSE date 16th January 1986  
Outline for the erection of a 35 bedroom building as an annexe to proposed Pinnex Moor Retirement Nursing Home  
86/00750/FULL - PERMIT date 8th August 1986

Demolition of existing single storey wing and erection of 40 room extension and Matron's flat together with ancillary accommodation, with formation of vehicular access from Pinnex Moor Road

86/00917/FULL - PERMIT date 11th August 1986

Listed Building Consent for alterations and extensions to Pinnex Moor House in association with a proposal to convert house to a retirement home and to erect an extension

87/00702/FULL - PERMIT date 3rd August 1987

Conversion of Pinnex Moor House and outbuildings to Nursing Home together with extensions, alterations and formation of new access to Pinnex Moor Road with ancillary car parking and bridge over Leat (Revised Proposals)

87/00931/FULL - PERMIT date 8th July 1987

Listed Building Consent for the conversion of Pinnex Moor House and outbuildings to Nursing Home together with extensions, alterations and formation of new access to Pinnex Moor Road with ancillary car parking

87/01917/FULL - PERMIT date 16th November 1987

Erection of rest homes plus wardens accommodation and construction of vehicular access

97/00026/FULL - PERMIT date 28th February 1997

Temporary siting of a portable office building

01/01276/FULL - PERMIT date 15th March 2002

Renewal of temporary planning permission 4/52/97/26 for the use of land for siting of portacabin

02/02481/FULL - PERMIT date 18th December 2002

Erection of covered and elevated walkway

03/05496/FULL - PERMIT date 28th April 2004 Erection of two storey extension and conservatory

07/00782/FULL - PERMIT date 13th June 2007

Erection of two storey extension

11/00281/FULL - PERMIT date 15th April 2011

Erection of single storey extension to main building - NON-MATERIAL AMENDMENT GRANTED 17TH AUGUST 2011

17/00714/FULL - PERMIT date 28th June 2017

Erection of single storey extension

19/01640/FULL – PERMIT date 5<sup>th</sup> February 2020

Erection of a two storey extension (Revised Scheme)

## **RELEVANT PLANNING POLICY/GUIDANCE**

### **Mid Devon Local Plan 2013-33**

S1 - Sustainable development priorities

S9 - Environment

S10 - Tiverton

DM1 - High quality design

DM3 - Transport and air quality

DM5 - Parking

National Planning Policy Framework

National Planning Practice Guidance

## **CONSULTATIONS**

TIVERTON TOWN COUNCIL – 02/03/21 - This is over development which would, if passed, have a detrimental effect on adjacent properties

03/08/21 - Previous comments of non-support remains. Development is too close to neighbouring properties and parking issues remain

HIGHWAY AUTHORITY – 29/09/20 - No comments.

03/03/2021 - I visited the site yesterday, and there are 12 parking spaces and not the 17 stated in the email below, although these are all outside the Care Home and there are none out side Pinnex only a turning head which cars were parked in.

There were many cars parked on the highway leading to this area which does cause concern and may be restricting the width of the carriageway to a point that an emergency vehicle would struggle to negotiate.

I am not sure this would be enough for the County Highway Authority to recommend refusal, but this is very short of Mid Devon District Council Policy DM 5, and I would suggest before they extend the premises further creating more bedrooms, they need to provide adequate parking for the existing approved use.

06/07/21 - The Applicant has put forward a parking plan which shows 15 parking spaces within the car park and two spaces which are in the turning head on the public highway. This turning head is Public Highway and therefore should not have parked vehicles as this area is to be clear to allow for vehicles to turn around.

With the number of staff and the number of vehicles parking in this area for which I have witnessed, clearly the number of spaces are not sufficient for the size of the Care Home. The number of Parking spaces also do not meet the Mid Devon Local Plan Policy DM 5.

Therefore the County Highway Authority would recommend refusal of this extension application without a proposal of more parking being provided as this would create a severe impact on the highway network.

10/08/21 - The applicant has removed the bedrooms from the proposal, although my concerns are still with the car parking facility at the site. The Car Parking Drawing submitted shows 15 Spaces within the site and 2 spaces on the Public Highway turning head. Which is unacceptable.

The car park spaces they have included within their site is where a permanent porta cabin is placed and therefore cannot be used as parking, the County Highway Authority would require the applicant to submit a plan showing the number of parking space, they can achieve within their site and available for use.

Therefore the County Highway recommendation for this proposal is still refusal.

18/08/21 - The applicant has recently removed the bedrooms from this application and which no longer affects the parking as no more parking spaces will be required.



Therefore the County Highway Authority removes the previous recommendation of refusal and has no objection to this application

PUBLIC HEALTH - Contaminated Land: No objection to this proposal. (22.09.20).

Air Quality: No objection to this proposal. (22.09.20).

Environmental Permitting: No objection to this proposal. (22.09.20).

Drainage: No objection to this proposal. (22.09.20).

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

Reason: To ensure that the proposed development does not prejudice the amenities of neighbouring properties. (22.09.20).

Housing Standards: No comment. (01.10.20).

Licensing: No comments. (22.09.20).

Food Hygiene: No comments. (22.09.20).

Private Water Supplies: Not applicable. (22.09.20).

Health and Safety: No comments. (22.09.20).

06/04/2021 - Further to our initial comments we have now considered some of the matters raised by residents and can provide some advice.

Some concerns have been expressed about existing parking issues, perhaps exacerbated whenever building or maintenance works are taking place. Ideally the residential care home should consider providing additional on-site parking, implementing a staff travel plan and ensuring that all contractors park on site. The main access to this care home is through a residential area and the management should consider how best to ensure that their business does not impact on the amenity of local residents. The residents themselves could perhaps seek the assistance of the town council in reaching an acceptable way forward.

The Construction Environment Management Plan included by condition if approval is granted must include a section on construction traffic and contractor parking to ensure that residential amenity is not compromised. The CEMP or CMP needs to have very clear instruction on deliveries during the build and also parking for contractors. They should be prohibited from parking in the residential roads and an area on site should be set aside for them. That might mean that staff have to park further away for a while. A "wait away" system should be established for all deliveries to ensure that each is called in only when they can get directly onto site. This works really well where access can only be obtained through residential roads. Finally the company should include a commitment to provide copies of the plan to all delivery drivers and contractors.

Any other specific noise or nuisance issues, a tumble dryer was mentioned, should be referred to the public health team so that officers can help to get these matters resolved."

NATURAL ENGLAND – 01/10/20 - No comments.

MDDC TREE CONSULTANT – 24/08/21 - I have had a look at the plans/your photos & can offer the following comments:

- The end part of what appears to be a regularly clipped cypress hedge has grown into a significant size tree, the proposed extension appears to be in close proximity to the tree itself, the proposed extension would potentially impact significantly on the tree roots.
- While a raft foundation is generally shallower than strip foundations it would still require significant excavation, where construction is being considered within the RPA of retained trees a pile type foundation should be considered, to avoid excavation that would damage the root system,
- If the hedge/tree is considered important and ought to be retained/protected because it provides a screening for the building/amenity then an arboricultural survey, impact assessment, method statement and tree/hedge protection plan should be submitted in support of the application, this would be more robust & likely to be more successful than relying on a condition to protect the tree/hedge
- To sum up a raft type foundation is unlikely to provide sufficient root protection and a pile foundation may need to be considered, a starting point should be a BS5837 survey of the tree/hedge to determine the RPA, the impact of the proposals can then be assessed and suitable mitigation measures can be outlined in an arboricultural method statement/tree protection plan.

I trust these comments are clear but please come back to me if you need to, if you feel it would help I can make a site visit, but to reiterate, if the tree is important enough to be considered as a constraint then my advice is that the BS5837 process should be followed in the usual way.

MDDC TREE OFFICER – 07/10/21 - The tree is one that is deemed low quality and would never be afforded protection. As Chris mentioned in his email pile foundation may need to be considered. However, my personal experience of this it that that there is still trenching carried to ensure the pile foundations are level.

The plan provided indicates there is only a small section of the RPA that will be impacted upon and that they will be implementing ground protection to ensure there is less likelihood of ground compaction.

I would recommend that:

- Pile foundation is utilised.
- Hand dig only within the RPA.
- An Arboriculturalist is present to review works in the RPA and provide advice where roots are encountered.
- Ground protection is provided as detailed in the Tree plan.
- Where roots over 2.5cm are encountered that they are suitably pruned back by an arborist.
- Method statements are provided before commencing works to inform how they will carry out the works within the RPA to ensure minimal impact.

If this was a higher quality tree I would have more of an issue.

## **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).

Letters of objection have been received from ten local residents in respect to this application. The main areas of concern are summarised below:

- The properties in Orkney Mews, adjacent to Ashdowne Care Home, are retirement properties for over 55 year olds. The proposed development will lead to additional noise and disturbance that will be detrimental to the residential amenity of neighbours. The proposal would also lead to increased vehicle movements and parking requirements that will add to existing parking issues in the area.
- There are existing parking issues as Ashdowne Care Centre does not have enough parking spaces. Many local properties also have no parking spaces, or parking provision below the usual parking standards due to the type of residences in the area i.e. over 55 year olds housing. This results in parking along Orkney Mews, including in the turning head, making it difficult for larger vehicles such as delivery lorries, refuse vehicles and ambulances, to access the street. The lack of space for turning has also resulted in vehicles having to reverse onto private drives to manoeuvre.
- The identified parking issues have been present even during the coronavirus pandemic, when there have been less visitors to the care home. The situation is expected to be worse following the lifting of restrictions.
- There have been building works carried out to provide a previously approved extension at Ashdowne Care Home, which has caused additional pressure on the on-street parking arrangements.
- There is a need for yellow lines to be provided to restrict parking along the street.
- The proposed development will be closer to existing properties, increasing the likelihood of harm to residential amenity from overlooking, overshadowing and additional noise impact.
- There are ongoing noise issues already, which will be exacerbated by the proposed development. These include the operation of noisy washing machines and dryers, and deliveries and waste collections being carried out, at unsociable hours, in addition to loud noise from staff and residents.
- Orkney Mews was once a quiet, peaceful cul-de-sac but is now affected by Ashdowne Care Centre, which has expanded to become a busy and successful business.
- The proposed development would be too close to the boundary hedge, which currently protects the amenity of neighbouring residents. It is likely that building works would damage the hedge and its roots.
- There are concerns about where building materials will be stored, especially if those were to be stored in the car park area, adding to existing pressures on parking space.
- The care home site is already overdeveloped. The proposal will lead to further overdevelopment.
- The recent construction works at Ashdowne Care Home caused many problems, with deliveries being made along Orkney Mews, as well as skips being stored in the car park,

and contractor vehicles being parked. There are concerns that these issues would be repeated.

- What will the proposed treatment room be used for? Could it be turned into another bedroom in future?
- It is also asked whether the windows and doors would be double glazed, and if extractor fans would be provided.

## **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

The main material considerations in respect of this proposal are:

- 1) Principle of development
- 2) Design and impact on the character and appearance of the surrounding area
- 3) Impact on residential amenity
- 4) Parking and access

- 1) Principle of development

The proposal is for provision of a single storey extension to the front of an existing care home in Tiverton. The extension includes alterations to the lobby, rearrangement of an existing office, enlargement of a kitchen and provision of a Covid secure visiting pod and a treatment room. When submitted, the proposal included the provision of a two-storey extension with additional bedrooms, however that element of the scheme has been removed due to concerns over the impact on residential amenity and highway safety.

On the basis that this will be providing improved facilities within this existing business, there are no objections in principle to the proposed development. Consideration will of course need to be given to the acceptability of the scheme in respect to other relevant local and national planning policy and guidance. The key issues are considered further below.

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

Policy DM1 of the Local Plan seeks high quality design that demonstrates a clear understanding of its context. Policy S1 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.

Ashdowne Care Centre comprises a former house that has been extended heavily on several occasions, and a detached large building, containing the various residential accommodation associated with this business. It now comprises two separate units, Ashdowne House and Pinnex Moor House. The proposal relates to Pinnex Moor House and comprises a single storey extension to the front, to be finished with brick and render, with slate roof covering, to match the main building.

Overall, the proposal is considered to appropriately respect and relate to the character and appearance of the site and its surroundings.

Concerns have been raised in respect to the proximity of the extension to an adjoining boundary hedge, which offers protection to neighbouring properties amenity. The hedge is an evergreen Cypress hedge, which is regularly clipped other than its western end, which has grown to form a

tree. Since the amendments to the proposal, the extension is now further from the hedge and tree. Following comments received from the Council's Tree Consultant at the time, additional information was received in the form of an evaluation of the hedge and associated tree protection plan. This identified the hedge and tree as being of low amenity value, although recognising that there is value in retaining the tree for visual and residential amenity reasons, tree protection measures are proposed. The tree protection plans has been assessed by the Council's Tree Officer and is considered to be acceptable, with only a small amount of the works proposed within the tree's root protection area. With the provision of the identified tree protection measures, along with the other measures, it is considered that there would be no unacceptable impact on the hedge and tree. The Tree Officer has recommended the conditioning of a method statement for works to be carried out within the root protection area to minimise harm.

### 3) Impact on residential amenity

Policy DM1 e) states that new development should be 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..."

Following concerns raised about the impact on residential amenity by way of overlooking and overshadowing, as well as highway safety concerns, the original proposal for a two-storey extension with additional bedrooms was omitted from the scheme. The proposal now comprises the provision of additional floor space for ancillary features, including enlarged lobby, visiting pod, repositioned office, enlarged kitchen and a treatment room.

The proposed extension does protrude nearer to the closest properties, of which the nearest is currently approximately 11 metres to the north. The extension will however be separated by the existing hedge and tree, or by the turning head at the end of Orkney Mews. It is considered that there is reasonable separation to avoid harm as a result of noise, and there is also considered to be no unacceptable harm to residential amenity as a result of overlooking or overshadowing following the redesign and noting the position of the boundary hedge. Concerns have been raised about existing noise issues relating to the operation of Ashdowne Care Home, however these are existing issues that would not be expected to increase as a result of this small-scale proposal. The use of the treatment room has been questioned, however it has been confirmed that this would be used for routine doctor visits and at other times would be used to securely store medication. It has been asked if there would be anything preventing this room being turned into a bedroom in future. It is noted that this is possible, in which case it is considered reasonable to impose a condition preventing any of the accommodation proposed being changed into bed space in the future.

While it is not considered to be strictly relevant to this application, the Council's Environmental Protection Officer is currently working with local residents and the applicant to try and resolve the existing issues.

In addition to the above, it is recognised that the construction works would have the potential to cause disturbance to local residents, if not properly controlled. It is noted that there were problems identified by residents during recent construction works at Ashdowne Care Home. As such, it is considered appropriate to impose a pre-commencement construction and environmental management plan (CEMP) condition. The Council's Environmental Protection Officer has recommended that this include special attention to construction worker's parking,

and deliveries to the site. The applicant has formally agreed to the imposition of such a condition.

It is also considered appropriate to withdraw permitted development rights for the addition of any new extraction or ventilation equipment, which could have the potential to generate noise.

With the suggested conditions, it is considered that the proposal will be acceptable and not unacceptably harm the amenity of local residents, either as a result of the proposed extension, or during construction.

#### 4) Parking and access

Policy DM3 of the Local Plan requires development to ensure safe access to the transport network. Policy DM5 relates to parking standards for new development.

It is recognised that there are parking issues within Orkney Mews. The estate comprises housing for over 55 year old residents, and contains reduced off-street parking provision than would usually be expected for residential development. It is also noted that Orkney Mews is of restricted width with limited on-street parking space. The private car park for Ashdowne Care Centre is also well below the policy requirements of DM5, which requires 1 parking space per bedroom. There are currently 60 bedrooms within the care homes, with a requirement of 60 spaces. At present there is only space for 15 parking spaces within the car park. With this being the existing situation, any additional development that would increase the need for parking space would be considered unacceptable. While the scheme included additional bedroom space, the Highway Authority did object, resulting in the omission of the new bedrooms. The facilities included within the proposed extension do not now result in a need to provide additional parking spaces, in which case while recognising ongoing issues with parking along the street, it is not considered reasonable to refuse planning permission on these grounds. Noting that there is no requirement for parking provision relating to the additional space proposed, the Highway Authority have withdrawn their previous objection.

As such, the proposal is acceptable and considered to have no adverse impact on highway safety in accordance policies DM3 and DM5 of the Mid Devon Local Plan.

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

The proposed development is considered to be acceptable, adequately respecting the character and appearance of the building and its surroundings, and causing no demonstrable harm to the amenity or privacy of nearby residents or to highway safety. The proposal therefore accords with policies S1, S9, DM1, DM3, DM4 and DM5 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 listed in the schedule on the decision notice.
3. Before the commencement of development, 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 Heavy/Large Goods Vehicle access to the site. It shall include details of the hours of operation and measures to be employed to prevent the egress of mud, water and other detritus onto the public and any non-adopted highways. The 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 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. This may include the establishment of a 'wait away' system for all deliveries;
  - (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 the amount and location of construction worker parking, including measures to avoid parking on the adjoining residential streets;
  - (k) details of proposals to promote car sharing amongst construction staff in order to limit construction staff vehicles parking off-site; and
  - (l) Photographic evidence of the condition of adjacent public highway prior to commencement of any work.

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

4. Before the commencement of development, a method statement detailing how works will be carried out within the root protection area (RPA) identified on submitted Tree Protection Plan (Ref: D14 455 P1) shall be submitted to and agreed in writing by the Local Planning Authority. This shall include measures such as:

- The utilisation of pile foundations
- Hand dig only within the RPA
- The presence of an arborist to review works in the RPA and provide advice where roots are encountered.
- Where roots over 2.5cm are encountered that they are suitably pruned back by an arborist.

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

5. For the duration of the development, the submitted scheme of tree and hedgerow protection measures identified in the submitted Tree Protection Plan (Ref: D14 455 P1), shall be installed and shall remain implemented in their entirety for the duration of the construction of the development and may only be moved, removed or dismantled following completion of the development hereby permitted, or with the prior consent of the Council in-writing.
6. The additional space provided within the development hereby permitted shall at no time be used to provide additional bedrooms
7. 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 external ventilation or extraction units shall be provided on the extension hereby permitted without the Local Planning Authority first granting planning permission.

## **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. In the interests of residential amenity, public safety and highway safety, in accordance with policies S9, DM1 and DM3 of the Mid Devon Local Plan 2013 and the aims and objectives of the National Planning Policy Framework. This pre-commencement condition is required to ensure that measures required to protect residential amenity, public safety and highway safety are in place before construction works start.
4. To preserve the health, structure and amenity value of existing landscape features (trees) in accordance with the policies S9 and DM1 of the Mid Devon Local Plan 2013-2033 and the aims and objectives of the National Planning Policy Framework. This pre-commencement condition is required to ensure that measures required to prevent harm to the adjoining tree and hedge are in place before construction works start.
5. To preserve the health, structure and amenity value of existing landscape features (trees) in accordance with the policies S9 and DM1 of the Mid Devon Local Plan 2013-2033 and the aims and objectives of the National Planning Policy Framework.



6. In the interests of residential amenity and highway safety, in accordance with policies S9, DM1 and DM3 of the Mid Devon Local Plan 2013 and the aims and objectives of the National Planning Policy Framework.
7. In the interests of residential amenity, in accordance with policy DM1 of the Mid Devon Local Plan 2013 and the aims and objectives of the National Planning Policy Framework.

## **INFORMATIVES**

1. If you are planning a new development or extending an existing property over, or within 3 metres of public assets you need to contact South West Water.

Note: South West Water will not permit building within 4.5 metres of public water mains, sewage rising mains or sewers on a new development or redevelopment site. For more information please refer to the information on their website:

Clean water – <https://www.southwestwater.co.uk/developer-services/water-services-and-connections/building-near-water-mains/>

Waste water - <https://www.southwestwater.co.uk/buildover>

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 further negotiations/discussions during the application process in order to attempt to resolve issues raised in the course of the application.

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

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

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