

PLANNING COMMITTEE AGENDA - 18th May 2022

Applications of a non-delegated nature

<u>Item No.</u>	Description
01.	21/02034/FULL - Erection of 6 dwellings including associated car parking and access with conversion of former gate house to ancillary accommodation in respect of House Type 4 at Mid Devon District Council, Park Road Nursery, Park Road. RECOMMENDATION Grant permission subject to conditions.
02.	22/00077/FULL - Erection of dwelling at 1 Allington Terrace, Morchard Road, Crediton. RECOMMENDATION Grant permission subject to conditions.

Application No. 21/02034/FULL

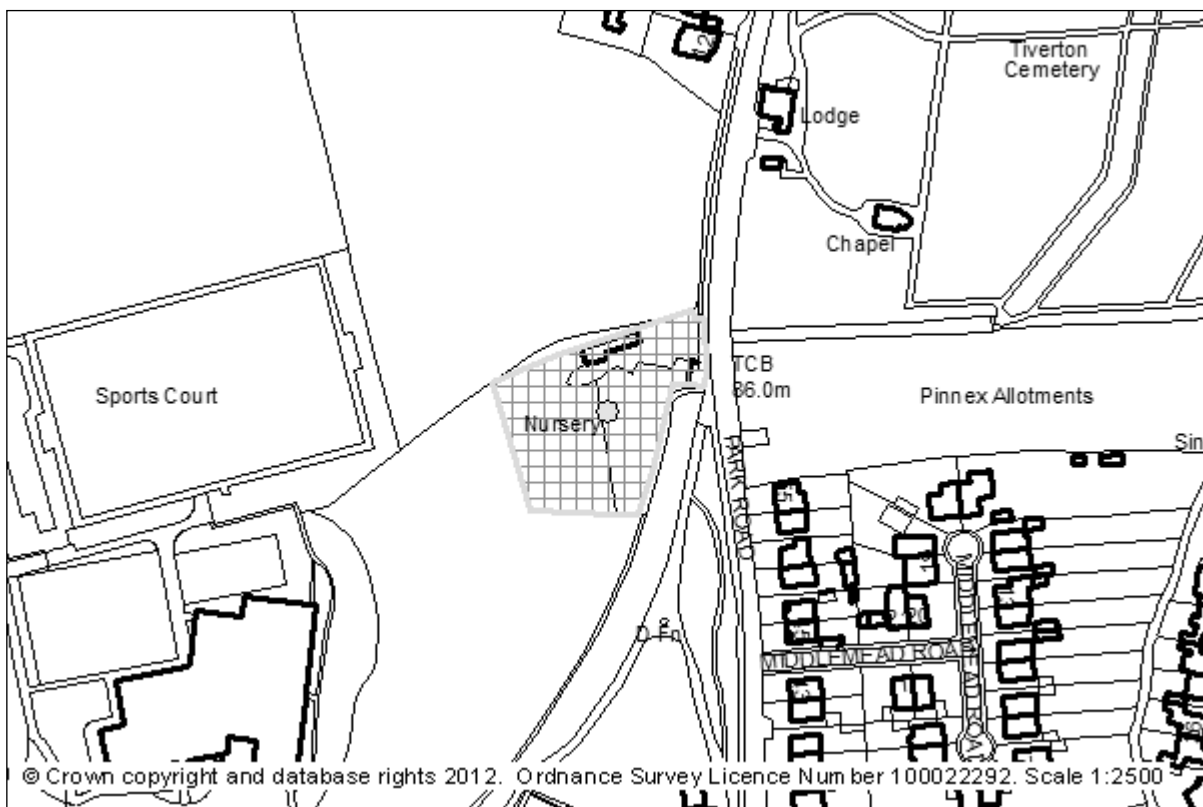
Grid Ref: 295613: 113473

Applicant: Mr Nick Sanderson, 3 Rivers Developments Ltd

Location: Mid Devon District Council
Park Road Nursery
Park Road
Tiverton

Proposal: Erection of 6 dwellings including associated car parking and access with conversion of former gate house to ancillary accommodation in respect of House Type 4

Date Valid: 9th December 2021



APPLICATION NO: 21/02034/FULL

REASON FOR REFERRAL TO COMMITTEE

This application is required to be considered by the Planning Committee, in line with the Council's adopted Scheme of Delegation, as Mid Devon District Council is the landowner, and the applicant is 3 Rivers Developments Ltd.

RECOMMENDATION

Grant permission subject to:

(i) The prior completion of a Section 106 planning obligation (in a form acceptable to Devon County Council's solicitor(s)) before the decision notice granting planning permission is issued, to secure the following:

a) Secure a contribution of £9,109 towards secondary education;

(ii) Conditions, as set out at the end of this report.

PROPOSED DEVELOPMENT

Erection of 6 dwellings including associated car parking and access with conversion of former gate house to ancillary accommodation in respect of House Type 4

The proposed development relates to Park Nursery, a brownfield site on the west side of Park Road, formerly used by Mid Devon District Council as a nursery site for the storage of equipment and garden waste. The site is made up of a mix of hard surface and unkempt shrubby areas, with a number of small buildings throughout the site. It is located just outside of the Tiverton conservation area and to the north of The People's Park, which is a locally listed heritage asset. Tiverton Cemetery is to the north east. This is also locally listed and contains three grade II listed buildings, the gates, gate piers and wall, the mortuary chapel and monument to W R Haydon. There is a lodge building located on the eastern boundary of the site, which is identified within the conservation appraisal as a building of special importance. The site is bounded by hedge and trees, mainly comprising ornamental conifers. The topography of the site slopes downwards to the west, and to the north of the site. The area to the west is planted with a variety of mature trees, stretching down to the rear of Exe Valley Leisure Centre on Park Hill. Planning permission was previously granted under 20/00858/FULL for the erection of 9 dwellings on the site.

This application seeks the erection of 6 dwellinghouses on the site, comprising one two-bedroom, four four-bedroom and one five-bedroom bedroom homes. The properties are of a high quality, contemporary design, using a palette of materials comprising brick, timber cladding and standing seam metal roofs.

APPLICANT'S SUPPORTING INFORMATION

Existing and proposed plans, design and access statement, heritage statement, ecological impact assessment, drainage statement, arboricultural appraisal, root investigation report.

RELEVANT PLANNING HISTORY

85/00747/FULL - DEMCON date 2nd July 1985 DEEMED CONSENT for the erection of store
96/00287/FULL - PERMIT date 20th May 1996 Installation of 2 No. 500 gallon fuel tanks for the storage of Derv and Gasoil and construction of blockwork bund
20/00858/FULL - PERCON date 6th November 2020 Erection of 9 dwellings with associated car parking and access

DEVELOPMENT PLAN POLICIES

Mid Devon Local Plan 2013-33
S1 - Sustainable development priorities
S3 - Meeting housing needs
S5 - Public open space
S9 - Environment
S10 - Tiverton
DM1 - High quality design
DM3 - Transport and air quality
DM4 - Pollution
DM5 - Parking
DM25 - Development affecting heritage assets

National Planning Policy Framework

CONSULTATIONS

TIVERTON TOWN COUNCIL

Whilst supporting the erection of six dwellings the council does not support the conversion of what is stated as being a former gate house as they feel it would be better to demolish this to enable there to be better access to the six dwellings. For the record the gate house was a former public toilet.

HIGHWAY AUTHORITY - 20.12.2021

The site is accessed off a C classified Road 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 01/01/2016 and 31/12/2020 is none.

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 proposed access.

The number of trips this development could generate will not be a severe effect on the Highway

As this is a Full Application the County Highway Authority (CHA) would require Long Section and Cross Section Drawing with Road to ensure gradients can be achieved within the Devon County Council Specification. CHA would also require a full detailed layout plan of the development

proposed, which shows the dimensions of the turning area to ensure vehicles leave in a forward gear.

Therefore the CHA cannot put forward recommendation until all this information has been submitted

07.03.2022

The Applicant has submitted the information required for the County Highway Authority to assess the application in Full and no have 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

The following conditions are requested:

- 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
- 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;

DCC EDUCATION - 22.12.2021

Regarding the above application, Devon County Council has identified that the proposed increase of 6 family type dwellings will generate an additional 1.5 primary pupils and 0.9 secondary pupils which would have a direct impact on the Primary Schools in Tiverton and Tiverton high.

In order to make the development acceptable in planning terms, an education contribution to mitigate its impact will be requested. This is set out below:

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

The primary schools in Tiverton are forecast to have capacity for the number of pupils likely to be generated by the proposed development. Therefore a contribution towards primary education infrastructure will not be sought.

Tiverton High is forecast to have capacity for 57% of all pupils likely to be generated by the proposed development. Therefore, Devon County Council would seek a contribution based on the Tiverton secondary percentage of 43% of the total number of pupils generated directly towards additional secondary education infrastructure at Tiverton High School. The contribution sought towards secondary is £9,109 (based on the DfE extension rate of £23,540 per pupil). This would relate directly to providing secondary education facilities for those living in the development.

All contributions would be subject to indexation using BCIS.

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

In addition to the contribution figures quoted above, the County Council would wish to recover legal costs incurred as a result of the preparation and completion of the Agreement. Legal costs are not expected to exceed £500.00 where the agreement relates solely to the education

contribution. However, if the agreement involves other issues or if the matter becomes protracted, the legal costs are likely to be in excess of this sum.

PUBLIC HEALTH

Contaminated Land No concerns 21.12.21

Air Quality No concerns 21.12.21

Environmental Permitting Not applicable 21.12.21

Drainage No concerns, properties will be served by mains sewers 21.12.21

Noise & other nuisances No concerns anticipated 21.12.21

Housing Standards No comments 10/12/21

Licensing No comments 20.12.21

Food Hygiene Not applicable 10.12.21

Private Water Supplies Not applicable 10.12.21

Health and Safety Not applicable 10.12.21

NATURAL ENGLAND - 23.12.2021

Natural England has no comments to make on this application.

MDDC CONSERVATION OFFICER - 27.01.2022

The site is located partly within the north edge of the Tiverton Conservation Area including the Lodge building to the Peoples Park.

The principle design influence is the steep topography of the site and the existing trees to the boundary and the edge of the park and footpath.

The plan layout is for 6 new dwellings located off a new cul de sac road to the upper part of the site,

Five of the dwellings sit at the ridge above the steep side of the hillside and sit partly into the bank being part split level to assist this. A single two bed smaller dwelling will be located adjoining the site entrance and include the Lodge to its garden area as an outbuilding. The retention of the Lodge is supported.

It is acknowledged to be a difficult site to develop and with the cut and fill and other hard landscaping works make it an expensive and difficult and there will be a significant level drops to the garden areas below the raised patio areas to the rear of the 5 new dwellings to the slope.

I would like to see a site section or two to show this level change as the steep steps up the garden and retaining walls main be overly heavy features that may have an impact on the wider views up to and across the slope to the Conservation Area from the areas around the Leisure centre at Exe Valley.

The house type designs are well crafted and appear to create a good common building line, on a consistent development platform however again I would like to see a street view to understand the townscape created.

The proposal seeks six high quality high end new homes that take their design reference from the local context, the historic core of the Conservation Area and the buildings and landscape of the parkland setting. The dwellings have a contemporary detailing and a simple palette of materials will define an architectural language with rhythm and interest.

The additional information above would assist in understanding whether the scheme creates an environment with a strong sense of place and a single character formed around the landscape and topography of the site.

The other options for this site development would be a flat blocks or smaller terrace properties that step down the site.

The proposal appears well considered and well-handled but to this view is subject to additional sections and wider views from the Exe valley below to understand the site impact on the setting of the Conservation Area.

26.04.2022

Following on our phone discussions on this amendment, I can confirm I support the proposal and consider these amendments to the west elevation and plinth area soften and reduce the visual impact on the setting and character and appearance of the Conservation Area and Park from wider views from the west around the Exe Valley Leisure Centre.

MDDC TREE OFFICER - 06.01.2022

The proposed development is located to the west of Park road and borders People's Park on a number of aspects as well as an agriculture field. The site currently comprises of a number of buildings as well as house.

The site contains a high number of ornamental conifers, predominantly in linear groups, which the accompanying arboriculture reports has divided up into five groups/areas (reference A1-A5). These area groups are located along the northern, southern and western aspects of the site. Only one group noted as A1 within the Arboriculture report does not run along a boundary. The Arboriculture report has noted these trees as C1 category (trees of low arboriculture quality). It is felt these were originally planted as conifer hedging and due to lapsed management have become large tree forming weak unions. Typically trees growing in high density with limited spacing, such as hedge planted trees are more likely to develop branch and stem unions that are viewed sub-optimal. There is a history of branch failure resulting from these sub-optimal unions in this case. Despite the category offered to these trees and individually viewed as unremarkable trees. The tree groups do provide valuable screening and buffering in the form of natural green walling. Most notable A3, which collective canopy is visible from Bolham road by the Exe Valley Leisure centre and Park road. Similar, A1 also being visible from Park Road too. A1 to A5 have all been

highlighted for removal to facilitate the development. This will result in a loss of notable visible green canopy cover. However, due their arboriculture merit removal to facilitate development is viewed reasonable subject to suitable mitigation tree replacement planting.

The supporting Arboriculture report identifies three individual trees for removal. T1, a Sycamore tree is noted as a U category tree, indication it cannot be realistically retained. Due to the site elevation the tree is not clearly visible in the wider landscape informing the amenity value provided by the tree is limited both in term of arboriculture and landscape value. Similar applies to T3, a Western red cedar that's viewed as a C1 category. T2, a Layland cypress is also categorised as C1 due to its structure form. The tree is growing in next to the group noted as A3. Similar to A3 due to the tree height and elevation its canopy is quite prominent and visible from Bolham road by the Exe Valley Leisure centre and Park road. Despite its visible the loss of the tree to allow for the proposed development is viewed as acceptable due to its low arboriculture quality.

The Arboriculture report identifies three B1 categories trees (trees of moderate quality). These tree are offsite within People's Park. T4 and T5, noted as two pine trees are noteworthy visual trees in the wider landscape informing the amenity value if high. The tree trees should be categorised as A2 (trees, groups or woodlands of particular importance as arboriculture and landscape features). The three trees are included within the arboriculture report due the identified root protection area (RPA) and crown spreads extending into the proposed development. T6, noted as a lime tree has a crown spread that is in close proximity to plot 5. In reviewing the supporting documents (listed under Information Provided/Reviewed above) there will be conflict will all three trees. The proposal breaches the RPA of the three trees. Construction works in the RPA should generally be avoided. Surface drainage and retaining walls are proposed with the RPA. This will likely require trenching that may destroy tree roots, subsequently impacting long-term tree health. The arboriculture report provides a method statement for the removal of hard surface and subbase within the RPA only. Further arboriculture investigation should be carried out in this instance and potentially review the design in the location to resolve conflict. Also due to the proximity of the crown spreads and heights of the trees to the proposed development of plot 5 and to a lesser degree plot 4 could result in conflict and perceived threat from the residents. This could put undue pressure on the trees and future management cost.

In general it is felt the loss of the tree highlighted with the arboriculture report is acceptable. Subject to suitable replacement planting. Surrounding trees in the landscape, predominantly trees in the park space should provide buffering of the loss of canopy green walling. The soft landscaping plan shows planting of twenty-four trees. No indication is provided on stock type. In order to provide suitable screening of the proposed development and to adequately mitigate amenity value loss of the removed trees extra-heavy standard trees should be planted, selecting tree species capable of growing to a suitable size where their canopy can be viewed in the wider landscape.

In summary the trees highlighted for removal to facilitate the proposal are deemed acceptable subject to suitable replacement planting. The proposal as it stands will negatively impact the three significant trees offsite. Currently there is not enough suitable arboriculture investigation/ method statement provided to facilitate the design within the RPA of the three trees. Generally construction with the RPA should be avoided. In addition the location of plot 5 and a lesser extent plot 4 as it

stands may result in long-term conflict due to the heights and spread of the trees that could cause increased management pressure and cost to the tree owner (the council).

08.03.2022

Following my comments, Tom Hurley of Advanced Arboriculture contacted me to discuss some of my concerns raised. Mainly, the development breaching the RPA of T4, T5 Pines and T6, lime tree. Due to ground condition Tom Hurley felt tree roots would not be present in this location. We agreed a below ground root investigation would be the best course of action (report attached). Following this investigation I no longer have concerns of the development impacting on the roots of the trees.

I still feel plot 5 and to some extent plot 4 may result in long-term conflict due to the heights and spread of the trees that could cause increased management. However, an option would be to TPO the trees. This would make it clear to any future prospective buyer of the homes (assuming permission was given) that these trees are viewed as an integral features in the landscape and will not be subjected to pruning without significant due reason.

REPRESENTATIONS

One letter of objection has been received from a local resident. The objections is raised on the grounds of increased traffic on what is felt to be an already dangerous and over used road. The contributor advises that they have lived on Park Road for 43 years and experienced speeding and increased traffic over this time. It is considered that this development would make this problem worse. It is also advised that that as the nearest property to the application site, it will be even more difficult than it already to access their property due to traffic.

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The main material considerations in respect of this proposal are:

- 1) Principle for development in this location
- 2) Design and impact on the character and appearance of the surrounding area
- 3) Parking and access
- 4) Impact on residential amenity
- 5) Planning obligations
- 6) Other

- 1) Principle for development in this location

The site is a former nursery owned by Mid Devon District Council, previously used for the storage of equipment and waste. It is no longer in use and therefore comprises a brownfield site within the Tiverton defined settlement boundary where residential development is permitted in principle by policies S1 and S10 of the Mid Devon Local Plan 2013-2033. The development would contribute to meeting the housing needs of the District as set out in policy S3 of the Local Plan. It is also a material consideration that there is an extant permission for the erection of nine dwellings on the site, approved under planning permission 20/00858/FULL.

As such, subject to assessment of the proposal against other site specific considerations, the development of the site for residential purposes is considered to be acceptable in principle.

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

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. In this case, it is considered that the proposed alterations are acceptable, respecting and relating to the appearance of the existing building and its surroundings.

In considering the proposed development generally, the scheme is for the provision of six new houses, one near the site access and five, in a line on the sloping western part of the site. The site has a relatively narrow road frontage but widens out significantly into the site where it adjoins the People's Park to the south. The topography of the site drops significantly to the west with the development being a bespoke scheme designed to respond to the topography and other site specific considerations.

It is considered that the proposed development is well designed to make good use of this dilapidated site. While the properties are of a modern contemporary design, they are designed to reflect many of the traditional characteristics and features of the nearby houses, with much of the existing form and massing of these existing properties represented. The proposed materials will respect and relate to local character. The proposed dwellings are also designed to meet the minimum floor space requirements set out in the Nationally Described Space Standards and would achieve adequate levels of daylight, sunlight and privacy. While the site topography has led to a design that incorporates different levels within the properties and garden areas, the front of the properties are level with the external site levels, allowing accessibility for all potential users.

In terms of layout, the properties will be set out in a spacious setting with good sized gardens and a well landscaped setting. To the rear of the five properties proposed to the west of the site, there will be raised terraces with covered patio areas below, with external stairs linking these to a sloped grassed area leading down to the western boundary. It is noted that there will be the removal of several trees within the site, including much of the existing boundary hedging although this is to be replaced with new, native species hedge to the north, south and western boundaries. The Council's Tree Officer did consider the proposal and has noted that the trees and hedges proposed to be removed are in poor health and low quality, mainly comprising non-native coniferous species. No objections are raised to their removal with the opportunity for replacement planting of more suitable trees that will have increased amenity value and the opportunity to provide biodiversity enhancements on site.

Concerns were initially raised in respect to the proximity of Plot 5 to three trees (T4, T5 and T6 – two pines and a lime tree), which are located within the People's Park. These concerns relate to both encroachment of works such as drainage and retaining walls within the root protection area (RPA), which may potentially impact on the long-term health of these trees, and also potential for crown spread and height resulting in conflict and perceived threat to the residents of this plot. Following further investigation and the provision of a root investigation report, the concerns regarding the impact on the health of the trees have been allayed, with tree protection measures proposed in the originally submitted arboricultural report deemed appropriate. The Tree Officer still maintains some concerns about the relationship of the neighbouring trees to Plot 5, however does consider that it may be appropriate to TPO the trees, which would give a clear indication that the trees are viewed as integral features in the landscape and will not be subjected to pruning without due reason. Should approval be granted, a condition would be required to implement the protection measures submitted, as well as the detailed landscaping scheme for replacement

planting throughout the site. Similarly, the procedure for serving TPOs is not one that can be carried out as part of this planning application, however should planning permission be granted, the Council's Tree Officer shall be notified of the decision so that they can progress with the protection of these trees, as appropriate. In addition to the on-site planting, the site is within a well landscaped area, with mature trees within the People's Park and on adjoining land to the west. In particular, views from lower ground, which would otherwise be seen in the context of the Exe Valley Leisure Centre, and other development on Park Hill, will be softened by the retained planting to the northern boundary, and the intervening planting on the land to the west and south.

As noted earlier, the site adjoins the conservation area, is adjacent to the People's Park, a local listed heritage asset and is also within the setting of Tiverton Cemetery, also locally listed and containing some grade II listed buildings.

As such consideration will have to be given to the impact that the development will have on the significance of these heritage assets. 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 coming to this decision the council must also be mindful of the duty as set out in section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. Section 66 relates to having 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. Section 72 requires the decision to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area, and have given it importance and weight in the planning balance.

In assessing the impact of the development, against the aforementioned local and national policy requirements, the proposal is considered to be acceptable. The Council's Conservation Officer has assessed the proposal, and following consideration of the submitted heritage statement, and additional requested information, including a redesign of the rear terracing of the five westernmost houses, is satisfied that the proposal will preserve the view towards, and to the setting, of the conservation area and the historic assets contributing to its character. As with the previously approved scheme, the Conservation Officer supports the retention of the lodge building close to the site entrance. The Town Council have suggested that this should be removed to improve access to the site, suggesting that it is a former public toilet. The building is however noted within the Conservation Area Appraisal as being of local importance and contributing to the character of the conservation area. It is proposed to remove a small 1960s extension from the lodge building and for it to be retained for use in connection with the occupation of Unit 1. Overall, the Conservation Officer supports the proposals and raises no objections, with it considered that the significance of the nearby heritage assets will be preserved.

Overall, it is considered that the proposal is acceptable and accords with policies DM1 and DM25 of the Mid Devon Local Plan.

3) Parking and access

Policy DM3 of the Local Plan requires development to ensure safe access to the transport network. Policy DM5 requires that new development provides appropriate levels of parking, taking into account the availability of public transport, and the type, mix and use of the development.

In this case, an objection was received from a local resident in respect to highway safety, due to the levels of traffic currently using Park Road, and the high levels of on street parking. Concerns were raised that the proposal would lead to increased levels of traffic, which would exacerbate the existing problems. The County Highway Authority have commented on this application. In considering the increase in traffic associated with the development, the Highway Officer has raised no objections subject to the provision of safe access. Initially insufficient detail was provided in respect to the site levels and visibility splays, however that has since been provided. Following consideration of that information, the Highway Authority have considered the proposed development to be acceptable and raised no objections subject to the imposition of conditions in respect to the agreement of a Construction Management Plan, proposed estate road details and drainage provision to prevent surface water run off onto the highway. It should also be noted that the proposal contains three less dwellings than previously approved, meaning that there will be a reduced impact on highway safety in comparison to the extant permission.

In respect to parking, the proposed development accords with the requirements for parking provision with at least 2 spaces available for each property. As well as the conditions requested by the Highway Authority a condition will be imposed to ensure that the provided parking remains free of obstruction.

The site slopes away from the road so there will be no surface water runoff onto the highway. As such, the requirement to provide drainage details shall be incorporated into a wider drainage condition.

Overall, the proposed development is deemed to be acceptable from a highway safety point of view, according with policies DM3 and DM5 of the Mid Devon Local Plan.

4) Residential amenity

Policy DM2 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...”*

The proposed development is set well away from the nearest properties, with no concerns raised in respect to impact on residential amenity as a result of overlooking or overshadowing. Similarly, the properties are sited appropriately to avoid unacceptable harm for the future occupiers of the site.

Concerns have been raised about the potential conflict between trees adjoining the site, and one of the properties (plot 5), however the trees are to the east of the property in questions, which will limit the amount of light loss, beyond the morning. There is more likely to be a perceived threat than actual significant adverse impact.

5) Planning obligations

No planning obligations are required in respect to Public Open Space, in line with policy S5 of the Local Plan, which advises that smaller development (fewer than 6 dwellings in rural areas and 11 dwellings in towns) will not be required to provide public open space, in accordance with national guidance.

County Education have advised that the proposal will generate an additional 1.5 primary pupils and 0.9 secondary pupils, which will have a direct impact on primary schools in Tiverton and Tiverton High. It is advised that primary schools in Tiverton are forecast to have capacity for the number of pupils likely to be generated, in which case a contribution towards primary education is not required. It is however advised that Tiverton High is forecast to have capacity for 57% of all pupils likely to be generated by the development. Devon County Council therefore are seeking a contribution based on the Tiverton secondary school percentage of 43% of the total number of pupils generated directly towards additional secondary education infrastructure at Tiverton High. This contribution towards secondary education is £9,109 (based on the DfE extension rate of £23,540 per pupil. It will be necessary for the applicant to enter into a Section 106 legal agreement to secure the requested planning obligations prior to any grant of approval being issued.

6) Other

Policy DM1 requires appropriate drainage including sustainable drainage systems and connection of foul drainage to a mains sewer where available. It is proposed that both the foul and surface water drainage would discharge to a private foul and surface sewer that already serves the Exe

Valley Leisure Centre. It is of course necessary to consider the provision of infiltration techniques initially, in line with the SuDS hierarchy, however it is noted that percolation testing carried out on site in connection with the previous application, concluded that the site is unsuitable for infiltration techniques or soakaways. Notwithstanding this, the proposal includes the removal of many existing impermeable surfaces with the inclusion of more landscaped and permeable areas. In order to control run off, the provision has been made for a large cellular attenuation tank within the grassed area to the west of the site. Details of the proposed drainage scheme are identified on the submitted drainage plan and drainage statement. A condition will be imposed for the drainage to be provided in accordance with these details.

It is noted that the site adjoins a public footpath within the People's Park. The scheme would not impact upon this public right of way, however an informative will be included in any decision to remind the developer of their obligations in respect to public rights of way and construction.

The application is supported by an ecology appraisal as here will be a loss of some habitat as result of the redevelopment of the site. The site has also become overgrown in places, with some small outbuildings that will be demolished, and various log piles and discarded materials within the site. The survey did identify the presence of a bat roost in one of the buildings to be demolished, otherwise no other significant constraints were identified. Old bird nests were identified within one of the buildings, and while no badgers were identified on site, parts of the site were concluded to have suitability for sett building. Similarly there is a small area of habitat suitable for dormice, which is connected to suitable habitat beyond the site. Similarly there is some suitable habitat for slow worm and common lizard.

In respect to the identified bat roost, it was concluded that this was an occasional and recent night roost for an individual or low number of lesser horseshoe bats. The proposed development would lead to the destruction of this roost, in which case a European Protected Species Licence (EPSL) would be required before carrying out any works to the building in question.

In addition, Regulation 9 (5) of the Conservation of Habitats and Species Regulations 2010 ("the Regulations") provides that, "*A competent authority, in exercising any of their functions, must have regard to the requirements of the Habitats Directive so far as they may be affected by the exercise of those functions*". In exercising their duty, the Local Planning Authority should assess the proposal against the three derogation tests of the Habitats Regulations 2010, these being:

- The 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'
- 'There is no satisfactory alternative'
- The development 'will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range'

In assessing these the first two of these tests, it is considered that the proposal satisfies them in that the accommodation would facilitate the provision of local housing, increased economic growth and rejuvenation of the local area. Additionally, there are no other satisfactory alternatives as the building is no longer in use and has already fallen into disrepair. Against the third test, it is considered that the proposal will not be detrimental to the maintenance of the species as appropriate mitigation will be provided to compensate for the loss of the existing roost, which is only used occasionally as a night roost by a small number of bats, enabling the favourable conservation status of the species recorded to be maintained. This mitigation is in the form of a bat box.

Notwithstanding the above, it is considered that the site offers some suitability for badger, dormouse, other mammals, nesting birds, reptiles and common invertebrates, although none were noted as being present. Any use of the site is likely to be attributed to other suitable habitats beyond the site. As such, there are no significant constraints to development identified. In addition to the proposed bat mitigation measures, the ecological appraisal includes recommendations for precautionary measures to avoid committing any offence in relation to protected species, should any be found during construction, and also in relation to breeding birds, as well as mitigation and enhancement measures. A condition requiring that the recommended precautionary measures, details of mitigation and biodiversity enhancement measures comply with the recommendations of the report.

SUMMARY

The proposed development comprising the provision of six dwellinghouses within the Tiverton defined settlement limits, is considered to be acceptable. The proposal by virtue of its siting and design will appropriately respect and relate to the character and appearance of the surrounding development, will preserve the character and setting of the adjoining conservation area and the significance other heritage assets, and would have no unacceptable impact on the private amenities of the occupiers of neighbouring properties. The property created will be of a suitable size for its future occupants, and is not considered to cause unacceptable harm to highway safety, local ecology or increase the risk of flooding locally. It is considered appropriate to recommend approval with conditions necessary to ensure the success of the development in this location. As such, it is considered that the proposed development is in accordance with policies S1, S3, S5, S9, S10, DM1, DM3, DM5 and DM25 of the Mid Devon Local Plan 2013 and 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. 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.

4. Details of the following shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of each element of the proposal respectively;
 - a) details of materials (including the provision of samples where appropriate) to be used for the external walls and roofs;
 - b) details of the recessing, colour and finish (including the provision of samples where appropriate) to be used for all new windows (including any roof lights) and doors;
 - c) details of position and colour finish of meter cupboards, gas boxes, rainwater goods, soil and waste pipes (soil and waste pipes are expected to be run internally).

Once approved such details shall be fully implemented and thereafter shall not be altered without the prior written consent of the Local Planning Authority.

5. The boundary treatments hereby permitted (other than hedgerows forming part of the submitted soft landscaping scheme) shall be provided in accordance with the details indicated on the approved plans, prior to the dwellings hereby permitted being first occupied, and shall thereafter be maintained and retained in perpetuity.
6. A landscaping scheme shall be implemented in accordance with the details indicated in the approved plans and submitted proposed softworks schedules. All planting, seeding, and earth works comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the dwellings or substantial completion of the development, whichever is the sooner, and 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.
7. The development hereby permitted shall be carried out in strict accordance with the schedule of tree works and protection measures contained within the submitted 'Arboricultural Report', prepared by Advanced Arboriculture, dated 27th September 2022. The approved tree protection measures shall be installed in their entirety prior to

commencement of the development, any site vegetative clearance, demolition of existing structures, ground-works, heavy machinery entering site or the on-site storage of materials, and shall remain implemented in their entirety for the duration of the construction of the development and may only be moved, removed or dismantled with the prior consent of the Council in-writing.

8. Foul and surface water drainage to serve the development, including details to prevent the discharge of surface water onto the highway, shall be implemented in accordance with the details indicated in the approved plans and submitted drainage statement. The approved drainage scheme shall be completed and become fully operational before any of the dwellings hereby permitted are first occupied. Following its installation such approved scheme shall be permanently retained and maintained thereafter.
9. The development hereby permitted shall be carried out in accordance with the recommendations detailed in the submitted *Ecological Impact Assessment (Bats and Birds)* (prepared by GE Consulting - dated December 2021) covering avoidance of harm to protected species and nesting birds, mitigation, compensation and biodiversity enhancement measures.
10. The parking spaces identified on the submitted plans shall be provided prior to the dwellings hereby permitted being first occupied, and shall thereafter be maintained and retained in perpetuity, being kept clear of obstruction and only used for parking of vehicles in connection with the development hereby permitted.
11. The lodge building to be retained shall only be used for purposes incidental to the enjoyment of the residential use of the dwellinghouse referred to as 'Unit 6' (house type 4) on the approved plans. 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) the building shall not be extended or altered without the Local Planning Authority first granting planning permission.
12. 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 (other than that expressly granted by this planning permission) of the types referred to in Classes A, AA, B, C and E of Part 1, or Class A of Part 2 of Schedule 2 relating to the enlargement, improvement or other alteration of a dwellinghouse, addition or alteration to the roof, provision within the curtilage of the dwellinghouse of any building or enclosure, swimming or other pool, container for domestic heating purposes for storage of oil or liquid petroleum gas or the erection of a gate, fence wall or other means of enclosure, shall be undertaken within the application site without the Local Planning Authority first granting planning permission.

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 highway safety, in accordance with policy DM3 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 the Construction Management

Plan is agreed prior to any construction works. The applicant has confirmed their agreement to the imposition of this pre-commencement condition.

4. To ensure the use of materials appropriate to the development in order to safeguard the visual amenities of the area in accordance with policies S1, S9 and DM1 and DM25 of the Mid Devon Local Plan 2013-2033 and the aims and objectives of the National Planning Policy Framework.
5. In the interests of residential amenity and to safeguard the visual amenities of the area in accordance with policies S1, S9 and DM1 and DM25 of the Mid Devon Local Plan 2013-2033 and the aims and objectives of the National Planning Policy Framework.
6. To safeguard the visual amenities of the area in accordance with policies S1, S9 and DM1 and DM25 of the Mid Devon Local Plan 2013-2033 and the aims and objectives of the National Planning Policy Framework.
7. To preserve the health, structure and amenity value of existing landscape features (trees and hedges) to safeguard the visual amenities of the area in accordance with policies S1, S9 and DM1 and DM25 of the Mid Devon Local Plan 2013-2033 and the aims and objectives of the National Planning Policy Framework.
8. To ensure that the site is adequately drained, in the interests of public safety and to prevent damage to the highway, 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.
9. For the conservation and protection of legally protected species and for the enhancement of biodiversity, 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 highway safety, in accordance with policies DM3 and DM5 of the Mid Devon Local Plan 2013 and the aims and objectives of the National Planning Policy Framework.
11. To safeguard the visual amenities of the area in accordance with policies S1, S9 and DM1 and DM25 of the Mid Devon Local Plan 2013-2033 and the aims and objectives of the National Planning Policy Framework.
12. To safeguard the visual amenities of the area in accordance with policies S1, S9 and DM1 and DM25 of the Mid Devon Local Plan 2013-2033 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>

2. 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 a temporary closure is required during construction works, e.g. for safety reasons, the applicant would need to apply to the County Council for a Temporary Traffic Regulation Order.

Further information about public rights of way and planning is available on our website here.

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

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 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.

In accordance with paragraph 38 of the National Planning Policy Framework the Council has worked in a positive and pro-active way with the Applicant and has negotiated amendments to the application to enable the grant of planning permission.

Application No. 22/00077/FULL

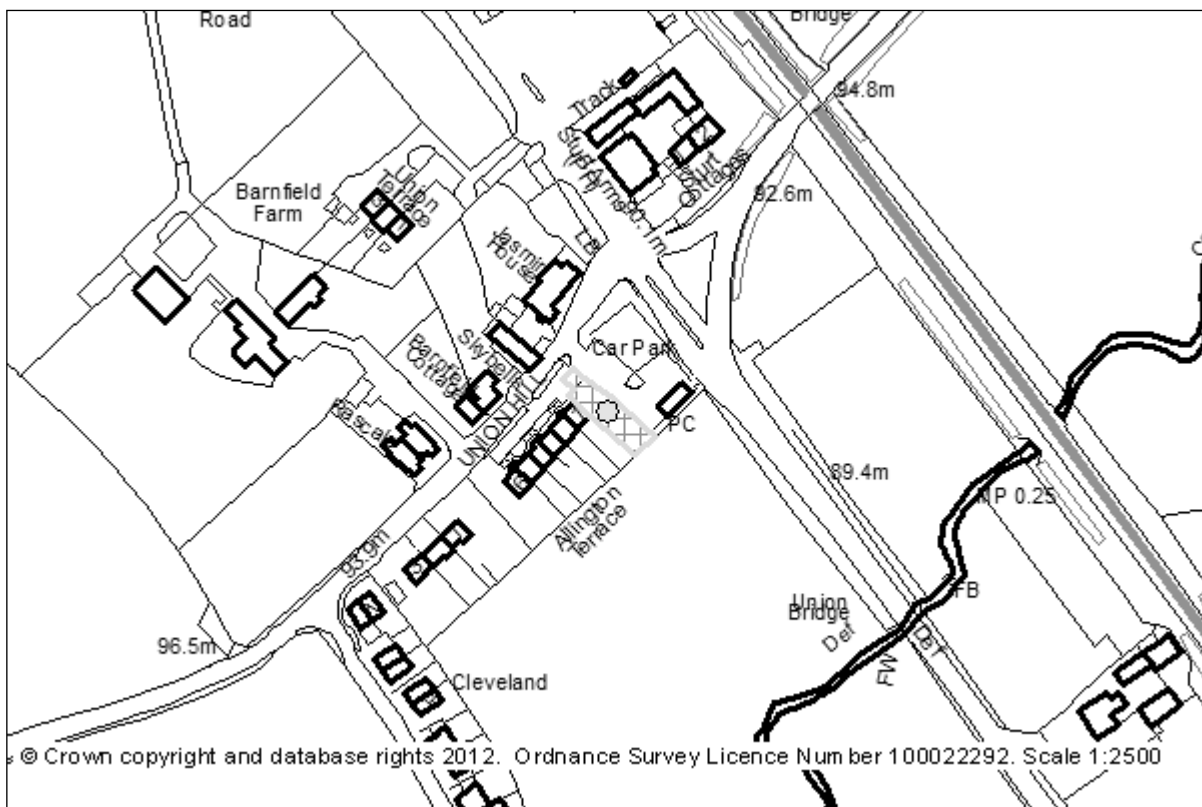
Grid Ref: 275084: 104817

Applicant: Mr M Frost- Mid Devon District Council

Location: 1 Allington Terrace
Morchard Road
Credton
Devon

Proposal: Erection of dwelling

Date Valid: 31st January 2022



APPLICATION NO: 22/00077/FULL

RECOMMENDATION

Grant permission subject to conditions

REASON FOR CALL IN

The application has not been called in by an elected member. The application is submitted on behalf of MDDC who own the site and the adjacent properties within Allington Terrace, hence the application must be determined by Planning Committee.

PROPOSED DEVELOPMENT

Erection of dwelling.

The site is a relatively long and narrow strip of land located to the side of number 1, Allington Terrace at Morchard Road. The site extends to approximately 212sqm and currently forms part of the garden area of this end of terrace dwelling. To the north, the site is bordered by the public car park, and to the east by agricultural land.

The application seeks planning permission to erect a dwelling on the site. The dwelling is proposed as a two storey semi-detached property, adjoining the end of the existing terrace. It is intended to be provided as an affordable two bedroom dwelling providing a gross internal floor area of approximately 87sqm. The material palette comprises rendered walling, a slate tiled roof, uPVC windows and doors. It is proposed that two parking spaces would be provided immediately in front of the dwelling. Surface water is proposed to be managed via a soakaway and foul drainage via the existing mains drainage system.

APPLICANT'S SUPPORTING INFORMATION

Application form, plans, design and access statement, preliminary ecological appraisal, bat emergence survey report,

Revised plans received 29th April 2021 to reduce the red line area to exclude the SWW treatment plant. Given the minor nature of the amendment it is not considered necessary to re-consult.

RELEVANT PLANNING HISTORY

07/00369/OUT - REFUSE date 1st May 2007 Outline for the erection of 2 semi-detached dwellings
22/00077/FULL - PCO date Erection of dwelling

DEVELOPMENT PLAN POLICIES

Mid Devon Local Plan 2013-2033

Policy S1 -Sustainable development priorities

Policy S2- Amount and distribution of development

Policy S3- Meeting housing needs

Policy S9 – Environment

Policy S14 – Countryside
Policy DM1 -High quality design
Policy DM5 – Parking
Policy DM6 - Rural exceptions sites

CONSULTATIONS

DOWN ST MARY PARISH COUNCIL- 02.03.2022- The Down St Mary Parish council have considered this application and have no objections

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

PUBLIC HEALTH-

Contaminated Land - No concerns - 17.02.22

Air Quality - No concerns - 17.02.22

Environmental Permitting Not applicable - 17.02.22

Drainage - No concerns - 17.02.22

Noise & other nuisances - No concerns anticipated - 17.02.22

Housing Standards - No comments - 18.02.22

Licensing - No comments - 08.02.22

Food Hygiene - Not applicable - 04.02.22

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 - 04.02.22

Health and Safety - No comment - 04.02.22

SOUTH WEST WATER- I can confirm that South West Water has no concern or comment.

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

MDDC FORWARD PLANNING-

Note

This Forward Planning response discusses the policy context around the principle of an affordable dwelling in this location. All other matters associated with the application have not been addressed but will be considered by the case officer in the process of determining the application.

Policy Context

National Planning Policy Framework

The NPPF states that Local Planning Authorities should support opportunities to bring forward rural exception sites that will provide affordable housing to meet identified local needs. Paragraph 79 stipulates that planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply:

- There is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside;
- The development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets;
- The development would re-use redundant or disused buildings and enhance its immediate setting;
- The development would involve the subdivision of an existing residential dwelling; or
- The design is of exceptional quality, in that it:
 - Is truly outstanding or innovative, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and
 - Would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.

Local Plan Review 2013-2033

Policy S14 stipulates that development outside of the settlements defined by Policies S10-S13 will be required to preserve and where possible enhance the character, appearance and biodiversity of the countryside while promoting sustainable diversification of the rural economy. With regards to housing, Clause a) permits affordable and low cost housing to meet local needs.

Policy DM6 'Rural Exception Sites' stipulates that the development of a site for predominately affordable or low-cost housing, including self-build housing, to meet proven local need in rural areas will be permitted where:

- a) There is up to date evidence of housing need secured through a housing need survey, or in the case of a self-build proposal, evidence of eligibility for shared ownership housing through 'Help to Buy' or an equivalent scheme;
- b) Each house will be occupied by at least one person with a strong local connection to the parish
- c) The site adjoins a settlement and is in a suitable location which takes account of the potential for any visual impact and other relevant planning issues;
- d) The type and scale of affordable or low-cost housing is appropriate to the proven need;
- e) The affordable or low-cost housing will remain affordable for and available to local people in perpetuity, limited to no more than 80% of its market value upon resale.

Assessment

This application proposes the erection of one dwelling at 1 Allington Terrace, Morchard Road, Devon. Morchard Road is not a defined settlement under Policy S13 of the Local Plan. It is therefore defined as 'countryside' under S14 whereby detailed development management policies will permit agricultural and other appropriate uses. In this instance, the relevant policy is DM6 'Rural Exception Sites'.

Clause a) of DM6 requires up-to-date evidence of housing need secured through a housing need survey, or in the case of a self-build proposal, evidence of eligibility for shared ownership through 'Help to Buy' or an equivalent scheme. There is no housing need evidence currently available for Down St Mary Parish. However, there is clear evidence of demand for a two bedroom property

within adjoining parishes and therefore it is reasonable to assume that provision of an affordable home of this nature would be appropriate, subject to all other requirements of Policy DM6 being met.

Clause b) requires that each house will be occupied by at least one person with a strong local connection to the parish. Clearly, the occupiers are unknown at this stage, although the applicant will need to agree to enter into a section 106 agreement to ensure that the affordable home remains available to local people in perpetuity. The agreement will need to reflect the Council's standard affordable housing allocations criteria, which can be found here: [Affordable Housing Allocations Criteria 2017 \(middevon.gov.uk\)](https://www.middevon.gov.uk)

Clause c) requires that the site adjoins a settlement and is in a suitable location which takes account of the potential for any visual impact and other relevant planning issues. Morchard Road does not have a defined settlement limit, although paragraph 4.22 of the supporting text makes clear where parishes do not contain a defined settlement but may have an affordable housing need, a broader interpretation of 'settlement' will be appropriate, as long as there would be reasonable access to local services and infrastructure. The case officer is best placed to determine whether this test has been met, having visited the site and surrounding locality.

Clause d) requires that the type and scale of affordable or low cost housing is appropriate to the proven need. It is considered that a two bedroom home in this location is appropriate to local needs, having regard to the housing need data available.

Finally, Clause e) requires that the affordable or low-cost housing will remain affordable for and available to local people in perpetuity, limited to no more than 80% of its market value upon resale. As set out above, the applicant will need to enter into a section 106 agreement that ensures the affordable home will remain affordable and available to local people in perpetuity, limited to no more than 80% of its market value upon resale.

Conclusion

The principle of whether an affordable dwelling would be appropriate in this location is contingent on demonstrating that the requirements of Policy DM6 have been met. This response confirms sufficient evidence of housing need and that the type and scale of affordable housing is appropriate. As set out above, the case officer is best placed to advise on whether there would be reasonable access to local services and facilities. Therefore, the principal outstanding matter is the need to secure appropriate controls over the housing to ensure that it remains available for people with a local connection who cannot afford open market housing in their area.

REPRESENTATIONS

This planning application has been advertised by means of a site notice, by notifying immediately adjoining neighbours in writing and by advertising in a local newspaper in accordance with the Council's Adopted Statement of Community Involvement (October 2016) and the legal requirements for publicity on planning applications, as set out in The Town and Country Planning (Development) Management Procedure (England) Order 2015, as amended by The Town and Country Planning (Development Management Procedure, Listed Buildings and Environmental Impact Assessment) (England) (Coronavirus) (Amendment) Regulations 2020.

At the time of writing this report one letter of objection has been received, the key concerns are summarised below;

1. Concerns regarding right of access to rear of other properties
2. Impacts to parking provision
3. Insufficient garden space for property
4. Sewage treatment is currently within the site

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The main issues in the determination of this application are:

1. Policy and principle of development
2. Design and amenity
3. Highway and parking matters
4. Ecology and biodiversity
5. Other issues

1. Policy and principle of development

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 NPPF is a material planning consideration and sets out that the purpose of the planning system is to contribute to the achievement of sustainable development. There are three overarching objectives of sustainable development that are interdependent and need to be pursued in mutually supportive ways, these are an economic social and environmental objective.

The NPPF states that Local Planning Authorities should support opportunities to bring forward rural exception sites that will provide affordable housing to meet identified local needs. Paragraph 79 stipulates that planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply:

- There is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside;
- The development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets;
- The development would re-use redundant or disused buildings and enhance its immediate setting;
- The development would involve the subdivision of an existing residential dwelling; or
- The design is of exceptional quality, in that it:
 - Is truly outstanding or innovative, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and
 - Would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.

Morchart Road is not a recognised settlement by policy S13 and is therefore considered as a countryside location. Policy S14 stipulates that development outside of the settlements defined by Policies S10-S13 will be required to preserve and where possible enhance the character, appearance and biodiversity of the countryside while promoting sustainable diversification of the rural economy. With regards to housing, Clause a) permits affordable and low cost housing to meet local needs.

Policy DM6 'Rural Exception Sites' stipulates that the development of a site for predominately affordable or low-cost housing, including self-build housing, to meet proven local need in rural areas will be permitted where:

- a) There is up to date evidence of housing need secured through a housing need survey, or in the case of a self-build proposal, evidence of eligibility for shared ownership housing through 'Help to Buy' or an equivalent scheme;
- b) Each house will be occupied by at least one person with a strong local connection to the parish
- c) The site adjoins a settlement and is in a suitable location which takes account of the potential for any visual impact and other relevant planning issues;
- d) The type and scale of affordable or low-cost housing is appropriate to the proven need;
- e) The affordable or low-cost housing will remain affordable for and available to local people in perpetuity, limited to no more than 80% of its market value upon resale.

Taking each of these points in turn;

- a) The Council's Housing Enabling Officer has provided a consultation response and notes that there is no housing need evidence currently available for Down St Mary Parish. However it is noted that there is clear evidence of demand for a two bedroom property within adjoining parishes and therefore they consider that it is reasonable to assume that the provision of an affordable home of this nature would be appropriate, subject to the other requirements of DM6 being met.
- b) At this stage the occupiers are unknown, however the occupancy requirements including local connection criteria can be secured as part of the permission (this is discussed further below).
- c) As set out above Morchard Road does not have an identified settlement boundary, the supporting text of DM6 sets out that where parishes do not contain a defined settlement but may have an affordable housing need, a broader interpretation of 'settlement' will be appropriate, as long as there would be reasonable access to local services and infrastructure.

In terms of physical proximity to other buildings and dwellings, the site is located close to a number of other dwellings and is close to the Devonshire Dumpling Public House. Morchard Road benefits from some public transport facilities including a bus service and the train station. However the site does not benefit from immediate access to facilities necessary to support day to day living, as a result it is considered likely that future occupiers of the proposed dwelling would need to travel to access basic services such as shops, school, doctors surgery or a post office. The nearest settlement providing some of these services is Copplestone, which is approximately 2.1 miles south east of the site. Morchard Bishop is located approximately 2.7 miles north east and Lapford approximately 3 miles north west.

In considering appeal reference APP/Y1138/W/20/3264594 relating to a site approximately 65m north of the application site, the Inspector considered that the site had convenient access to both a bus stop and train station providing frequent access to nearby larger settlements. It was therefore found that the provision of a dwelling in this location would not necessarily or substantively add to the need to travel by car within this area.

The site forms part of the garden area of an existing residential dwelling and the development would be viewed as part of the existing terrace of properties. It is considered that the development would have limited impacts to the character and appearance of the area.

Whilst Morchard Road is not defined as a settlement in accordance with policy S13, having regard to the site location and proximity to some local services and public transport, it is your officer's view that the site would not be considered to be 'isolated' and would have reasonable access to services and facilities such that the provision of an affordable dwelling to meet local need could be supported in the context of DM6.

- d) The Housing Enable Officer considers that a two bedroom home in this location is appropriate to local needs, having regard to the housing need data available.
- e) As per clause B, the dwelling would need to be retained as an affordable dwelling in perpetuity by way of a legal agreement or condition (discussed further below).

2. Design and amenity

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 floor space 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'.

The dwelling is proposed to be sited adjoining the existing dwelling and would therefore become the end of terrace property. The design, scale and siting of the dwelling are considered to be acceptable within this context and it is considered that the development can be accommodated on

the site without adverse impacts to the character and appearance of the area. The material palette is designed to match the existing terrace and it is considered that the dwelling would sit comfortably in the context of the wider terrace. As a two storey, two bedroom, three person dwelling, the property would exceed the minimum requirements of the Nationally Described Space Standard.

The dwelling would benefit from a private garden area to the rear. Given the size, layout and orientation of the garden space it is considered that the development would achieve an acceptable level of privacy and amenity for future occupiers. Despite the concerns raised regarding the size of the garden, and although it is slightly smaller than the neighbouring properties by virtue of the SWW treatment plant, the size of the garden is considered to be commensurate with the other properties in the terrace and appropriate for a property of this scale and nature. Furthermore the external areas provide sufficient space for storage of recycling and refuse storage.

In terms of the impacts to the amenities of neighbouring occupiers, the proposed dwelling would impact upon the external amenity space currently enjoyed by the dwelling at number 1. However it is considered that that dwelling retains sufficient external amenity space to retain an acceptable level of amenity for those occupiers. Having regard to the siting and design of the proposed dwelling it is considered that the development is not likely to result in any significant adverse impacts to the amenities of neighbouring occupiers in terms of loss of light, privacy or overlooking.

Whilst the concerns regarding the impact to the right of way to neighbouring properties is noted, this is considered to be a civil matter that would need to be resolved by the Council as landowner. It is not considered to be a reason to withhold planning permission in this instance.

The proposed drainage arrangements, as set out above, are considered to be acceptable in principle in accordance with policy DM1. The representation raises concern in relation to the siting of a sewage treatment plant within the site. This matter has been raised with the applicant's agent who has confirmed that the existing properties and the proposed dwelling benefit from mains drainage which runs along the front of the properties. A SWW sewage treatment plant is located in the eastern corner of the site, at the end of the proposed garden area. Having regard to the siting of the plant in relation to the existing properties it is considered unlikely that it would result in any significant adverse impacts to the amenities of occupiers of the proposed dwelling however clarification has been sought from the Council's Public Health Team and an update will be provided to committee if necessary.

3. Highway and parking matters

Policy DM3 states that development must ensure safe access to the transport network. It is not considered that the proposal is likely to give rise to any significant levels of traffic generation. The site is currently accessed via a shared access from the public highway which leads to the parking area in front of the properties. It is considered that the access is suitable to accommodate the proposed development and it is considered unlikely that the proposal would result in any significant adverse impacts to the local highway network.

Policy DM5 requires development to provide an appropriate level of parking taking into account:

- a) The accessibility of the site, including the availability of public transport; and
- b) The type, mix and use of development.

The red line site area includes two parking spaces for the proposed dwelling which are to be sited immediately in front of the dwelling. The parking is provided within part of the area which currently forms part of the hardstanding parking area that serves the terrace of residential properties. As

such the development does not provide a net increase in parking provision but effectively increases demand on the existing communal parking area serving the terrace. The parking area provides an informal arrangement for resident parking currently shared by the 6 dwellings. It is a relatively large area and at the time of the officer site visit was not being used to capacity (albeit it is noted that this was during the day time). In this case there does appear to be some availability for parking on the public highway and, as discussed above there is reasonable access to public transport provision within walking distance of the site. It is noted that only one representation has raised concerns in respect of parking provision. Taking all these matters into account it is considered that the impacts to the parking arrangements are not likely to result in any significant adverse impacts on the highway network or the amenities of neighbouring occupiers and the parking provision is considered to be acceptable in accordance with policy DM5.

4. Ecology and biodiversity

Policy S1 requires development to minimise impacts on biodiversity and provide a net gain in biodiversity.

The application is supported by a Preliminary Ecological Appraisal and a Bat Emergency Survey Report. The PEA found that the garden area mainly comprises habitats of negligible value. A species poor hedgerow forms the eastern boundary. The initial survey work found a small number of pipistrelle droppings in the roof void of the existing dwelling. The habitats within the site provide moderate opportunities for foraging and commuting bats. No evidence of nesting birds was found, however the scrub and hedgerow within the garden offer suitable nesting habitat and their likely presence was assumed. The habitats on the site were considered to be of low or negligible value to other species and general good practise mitigation measures are set out to prevent harm to nesting birds, hedgehogs and reptiles.

As a result of the findings of the PEA, emergence survey work was undertaken to characterise the use of the site and establish the significance and scale of likely impacts to bats. During the emergence survey work no bats were recorded emerging from the dwelling and it is therefore the ecologist's view that it is highly unlikely that bats are roosting in the structure. On this basis it is considered that the proposed development is considered unlikely to result in harm to bats, no mitigation is necessary and a European Protected Species License is not required.

The PEA makes recommendations for biodiversity enhancement including the provision of;

- A sparrow nesting terrace to the north or east elevation of the dwelling
- Three invertebrate bricks in the south elevation (invertebrate bricks are specifically designed to replace standard bricks/blocks in construction and contain cavities to create habitat for solitary invertebrates including bees and wasps)

The south west elevation adjoins the existing dwelling, therefore it is proposed that the invertebrate bricks will be provided within the south east elevation.

The mitigation and enhancement measures can be secured by condition and on this basis it is considered that the development complies with the relevant requirements of policy S1 in respect of ecology and biodiversity.

5. Other issues

As set out above, in order to make the development supportable in accordance with policy DM6 it is necessary to secure the occupancy of the dwelling in perpetuity, to be affordable and occupied

by at least one person with a strong local connection to the parish. As the Council is the applicant it is not possible to enter into a legal agreement and therefore it is proposed to deal with this matter by condition, please refer to condition 3 below.

Conclusion

The application for the erection of a dwelling is considered to be supportable, as an affordable dwelling, in accordance with policy DM6. The site has reasonable access to local services and facilities and being secured as an affordable dwelling to meet local needs, is considered to constitute sustainable development. The scheme is considered to be acceptable in terms of design and amenity issues, and in respect of impacts to ecology, highways and drainage. Overall it is considered that the development is supportable in accordance with policies S1, S3, S9, S14, DM1, DM5, DM6 and government advice in the NPPF.

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.

CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice.
3. The dwelling hereby approved shall be for affordable housing and retained as such in perpetuity. The development shall not be occupied until details of the provision of affordable housing has been submitted to and approved in writing by the local planning authority. The affordable housing shall be provided in accordance with the approved details and shall meet the definition of affordable housing in the National Planning Policy Framework (2021) as set out in Annex 2 or any future guidance that replaces it. The details to be submitted shall include:
 - i. the type and tenure of the affordable housing provision to be made;
 - ii. the arrangements for the transfer of the affordable housing to an affordable housing provider [or the management of the affordable housing] (if no RSL involved);
 - iii. the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
 - iv. the occupancy criteria to be used for determining the identity of occupiers of the affordable housing (in accordance with the Council's Local Need/Connection Qualification Criteria cascade approach as set out in the Council's standard affordable housing allocations criteria) and the means by which such occupancy criteria shall be enforced
4. Unless otherwise agreed in writing by the Local Planning Authority, the development shall be carried out in accordance with the recommendation, mitigation and enhancement measures as set out in the Western Ecology Preliminary Ecology Appraisal (ref WOR2302.1 dated 25/07/2021) and the Western Ecology Bat Emergence Survey Report (ref WOR2403 dated 15th October 2021). The Biodiversity Enhancement measures shall be

provided in accordance with the recommendations of section 7 of the Preliminary Ecological Appraisal, as amended by email dated 21st April 2022 to confirm invertebrates bricks to be inserted in south east elevation, prior to first occupation of the dwelling hereby approved and shall be retained as such in perpetuity.

REASONS FOR CONDITIONS

1. RD1 in accordance with provisions of Section 51 of the Planning and Compulsory Purchase Act 2004
2. RD7A for the avoidance of doubt in the interests of proper planning.
3. In accordance with application submission and the provisions of policies S14 and DM6 as the dwelling is located in the countryside where an open market dwelling would not normally be supported.
4. 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 the Local Plan 2013- 2033.

INFORMATIVES

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

The application for the erection of a dwelling is considered to be supportable, as an affordable dwelling, in accordance with policy DM6. The site has reasonable access to local services and facilities and being secured as an affordable dwelling to meet local needs, is considered to constitute sustainable development. The design of the scheme is considered to be appropriate to the site and its context and it is not considered that the proposal would result in harm to the character and appearance of the area. The dwelling would afford a good level of amenity for future occupiers and the proposal is not likely to result in any significant adverse impacts to the amenities of neighbouring occupiers. The proposal is not likely to result in harm to protected species and enhancements to biodiversity can be secured. It is considered that the proposed development is unlikely to result in any significant adverse impacts in terms of highway, parking and access arrangements. Overall it is considered that the development is supportable in accordance with policies S1, S3, S9, S14, DM1, DM5, DM6 and government advice in the NPPF.