

Application No. 14/01938/MOUT

Agenda Item

Grid Ref: 111382 : 303843

Applicant: Devonshire Homes

Location: Land at NGR 303843 111382 South View Road Willand Devon

Proposal: Outline application for up to 97 dwellings, to include the importation of inert waste to raise land, with details of access onto the public highway provided and with all other matters reserved for future consideration

Date Valid: 17th December 2014



AGENDA ITEM

**PLANNING COMMITTEE
Macro [Date]**

REPORT OF THE HEAD OF PLANNING AND REGENERATION

14/01938/MOUT - OUTLINE APPLICATION FOR UP TO 97 DWELLINGS, TO INCLUDE THE IMPORTATION OF INERT WASTE TO RAISE LAND, WITH DETAILS OF ACCESS ONTO THE PUBLIC HIGHWAY PROVIDED AND WITH ALL OTHER MATTERS RESERVED FOR FUTURE CONSIDERATION - LAND AT NGR 303843 111382 SOUTH VIEW ROAD WILLAND DEVON

Reason for Report:

To consider the above planning application

RECOMMENDATION(S)

Refuse planning permission

Relationship to Corporate Plan:

The Corporate Plan sets out the following long term visions:

- i) Create a prosperous economy, secure and well-paid jobs and a sustainable environment – this will make Mid Devon the destination of choice for successful businesses.
- ii) Ensure that the housing needs of our residents are met through the provision of affordable homes and good quality housing in the public and private sector.

Financial Implications:

Should the application be refused and an appeal lodged with the Planning Inspectorate there may be a need to seek external expertise to assist the defence of any reasons for refusal which may relate to the commercial interest and viability of the site.

Should the application be refused and an appeal lodged with the Planning Inspectorate there is a risk of an award of costs against the Local Planning Authority if it were found to have acted unreasonably.

Legal Implications:

None

Risk Assessment:

None

Consultation carried out with:

See relevant section of the report

1. Highway Authority
2. Environment Agency

3. Willand Parish Council
4. Halberton Parish Council
5. Environmental Health
6. Economic Development Officer
7. South West Water
8. Devon County Council Strategic Planning Authority (Education)
9. Devon & Cornwall Police Authority
10. Natural England

1.0 PROPOSED DEVELOPMENT

This application seeks outline planning permission for the erection of up to 97 dwellings and associated infrastructure (including public open space), including the raising of ground levels on land to the north of the Four Cross Ways roundabout at the northern end of Willand.

The application site forms part of the existing employment allocation in the Local Plan Part 3, WI1 Willand Industrial Estate.

At this stage, the application seeks only to determine the specific details of access to the site, with details of the specific amount of development, layout, appearance and landscaping reserved for future consideration.

The application site amounts to approximately 2.77ha of land which is accessed via the existing spur into the Mid Devon Business Park from the adjacent Four Cross Ways roundabout. The land is largely undeveloped, although there are areas where ground levels differ, partly arising from the development of employment units to the east of the application site. Part of the site already has a road running through it, put in to serve the commercial development of the wider site.

The application proposes to provide three access points from the existing estate road coming off the roundabout; two of these accesses are proposed as 5.5m wide roads to adoptable standards and one 4.1m wide access which is proposed to provide access to a parking courtyard.

The site is bound to the east and west by existing commercial development. The northern boundary of the application site is demarcated by a public footpath which runs along its whole length, linking the adjoining Willand Industrial Estate with Muxbeare Lane.

The site lies within the parishes of both Willand and Halberton.

2.0 APPLICANTS SUPPORTING INFORMATION

Design and Access Statement
Flood Risk Assessment
Site Waste Management Plan
Transport Assessment
Wildlife Survey

Noise Assessment

Marketing History and Viability report & appendices (held confidentially)

3.0 PLANNING HISTORY

84/00773/FULL DEEMED CONSENT for the erection of high voltage overhead lines - DEMCON

89/01341/FULL Tipping soil and builders rubble over a four to five year period - PERMIT

90/02069/FULL Use of land for industrial purposes for the provision of small starter industrial workshop units - REFUSE

92/01961/FULL Erection of Class B2 starter industrial workshops (Outline) - REFUSE

93/00990/FULL Change of use of land to form parking area and access road to serve the M5 Auction Centre South View Road - REFUSE

93/01752/OUT Outline for the erection of workshop for restoration of Classic Cars - Class B2; erection of warehouse for storage of Classic Car Parts - Class B8 - REFUSE

00/00985/OUT Outline for the development of land for employment purposes within use classes B1 (business), B2 (general industrial) and B8 (storage or distribution) - REFUSE

05/02177/OUT Outline for the development of land for employment classes within use classes B1 (business), B2 (general industrial) and B8 (storage or distribution) - PERMIT

06/00457/ADVERT Consent for the erection of 1 no. development advertising board - PERMIT

06/01239/OUT Outline application for development of land for employment purposes (classes B1, B2 and B8) - PERMIT

06/01410/ARM Reserved matters application for highways and drainage for phase 1 of industrial development following outline consent 05/02177/OUT - PERMIT

06/01411/ARM Reserved matters application for highways for Phase 1 only and drainage for whole site including suds pond, following outline consent 05/2177/OUT - REFUSE

07/01471/MARM Reserved Matters for the erection of 15 business units - PERMIT

08/00332/ADVERT Advertisement application for the erection of 1 free standing sign - PERMIT

08/01486/FULL Removal of part (b) of condition 13 of planning permission

4/59/06/1239/OUT to delete the need to provide link road to adjacent land - APPEAL ALLOWED WITH NEW CONDITION - REFUSE

08/02283/MARM Reserved matters for the erection of an industrial building (Use Class B1/B8) (plots H1-H4) following outline permission 05/02177/OUT - NON-MATERIAL AMENDMENT GRANTED - PERMIT

09/00335/FULL Relocation of bin store - PERMIT

10/00425/FULL Insertion of 5 windows in south elevation of building - PERMIT

14/02116/FULL Erection of retail store, formation of access, car parking and service area, with landscaping and associated works – PENDING CONSIDERATION

4.0 DEVELOPMENT PLAN POLICIES

Mid Devon Core Strategy (Local Plan Part 1)

COR1 – Sustainable Communities

COR2 – Local Distinctiveness

COR3 – Meeting Housing Needs

COR4 – Meeting Employment Needs

COR8 – Infrastructure Provision

COR9 – Access

COR11 – Flooding

COR12 – Development Focus

COR17 – Villages

Mid Devon Allocations and Infrastructure Development Plan Document (Local Plan Part 2)

AL/DE/1 - Housing Plan, Monitor and Manage
AL/DE/3 - Affordable Housing Ste Target
AL/IN/3 - Public Open Space
AL/IN/5 - Education Provision
AL/IN/6 - Carbon Footprint Reduction
AL/CU/15 - Cullompton Air Quality

Mid Devon Local Plan Part 3 (Development Management Policies)

DM1 – Presumption in favour of Sustainable Development
DM2 – High Quality Design
DM3 – Sustainable Design
DM4 – Waste Management
DM7 – Pollution
DM21 – Protection of Employment Land

5.0 CONSULTATIONS

HIGHWAY AUTHORITY - 15th January 2015

The proposed development is served from an existing industrial estate road which is currently under construction and subject to a section 38 agreement. The proposed development would supercede that agreement, and would need to enter an alternative agreement to satisfy APC charges. The applicants have submitted a transport assessment which takes into account the existing Commercial consent granted to the land, this assessment also promotes a travel plan. The Highway Authority is happy with the figures within the assessment and it shows the roundabout serving the site and the surrounding network to be capable of taking the net increases in traffic generated by the development with some spare capacity and therefore there is no principle objection to the proposal.

The travel plan as far as it goes is acceptable to the Highway Authority, however, the Highway Authority would seek the provision of bus and cycle vouchers (£250.00 and £50.00 respectively) for the residential properties to encourage the use of alternative modes of transport. In addition the Highway Authority would seek a contribution of £10,000.00 to an identified scheme of cycle parking provision at Parkway station both the travel plan and the contribution should be secured through a section 106 agreement.

This application benefits by virtue of its registration, however subsequent to this application being submitted a further application a has been received by the Local Planning Authority for the provision of a food store on land adjacent to this site and accessed from the same roundabout. It must be a matter for the Local Planning Authority to decide whether or not it is reasonable for the applicant to revise the transport assessment to take into account the proposed new store given the two separate schemes are still under consideration.

If the Local Planning Authority are minded to consider that it would be unreasonable then in addition to the required section 106 agreement the following conditions should be imposed.

Recommendation:

THE HEAD OF PLANNING, TRANSPORTATION AND ENVIRONMENT, ON BEHALF OF DEVON COUNTY COUNCIL, AS LOCAL HIGHWAY AUTHORITY, RECOMMENDS THAT THE FOLLOWING CONDITIONS SHALL BE INCORPORATED IN ANY GRANT OF PERMISSION

1. The proposed estate road, cycleways, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, road maintenance/vehicle overhang margins, embankments, visibility splays, accesses, car

parking and street furniture shall be constructed and laid out in accordance with details to be approved by the Local Planning Authority in writing before their construction begins, For this purpose, plans and sections indicating, as appropriate, the design, layout, levels, gradients, materials and method of construction shall be submitted to the Local Planning Authority.

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

2. The development hereby approved shall not be carried out otherwise than in accordance with a phasing programme which shall previously have been submitted to and approved by the Local Planning Authority in writing.

REASON: To ensure the proper development of the site.

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

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

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

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

REASON: To protect water quality and minimise flood risk

ENVIRONMENT AGENCY - 30th January 2015

We are now able to withdraw our objection to the proposal. The investigation work has confirmed our understanding that the existing surface water drainage system does link into the existing Suds pond feature, We are now satisfied that the proposed surface water drainage strategy for the current planning application aligns with the philosophy of Suds and the agreed surface water drainage strategy that was draw up at outline planning stage.

WILLAND PARISH COUNCIL - 15th January 2015

Willand Parish Council unanimously recommend refusal of this application in the strongest possible terms.

Whilst appreciating that it is an outline planning permission for up to 97 dwellings and the importation of inert waste to raise land with details to Access onto the public highway provided and with all other matters reserved for future consideration, previous experience on other sites in the area show that once the principle has been set variations are made within reserved matters that have caused difficulties and concerns and moved away from the original concept.

To avoid confusion it is stated at this point that the site is named as the Mid Devon Business Park but on some MDDC maps it is referred to as the Willand Industrial Estate. This should not be confused with the South View Industrial Estate which is adjoining.

The main headings for recommending refusal at this stage are briefly listed as follows but will be expanded in detail later in the response:

1. In the Local Plan the site is identified and designated as for Commercial Use;
 2. Local concerns over drainage issue being aggravated with the proposed intense development;
 3. The proposed housing density and design will be inconsistent with a designated village location and not provide for adequate private or public open space and parking;
 4. The proposed housing development will be 'sandwiched' between two industrial sites and would not be consistent with good housing policy;
 5. Access to already inadequate local services would be difficult and potentially dangerous in some cases;
 6. Lack of tangible local support for further housing development in Willand supported by considerable demonstrated local opposition;
 7. Shortage of infrastructure and accessible public services some requiring travel to nearby towns;
 8. Concerns as to the credibility of the argument put forward to justify being unable let the site for current permitted use;
 9. Concerns as to future provision for Willand Parish as the site is split between two Parishes - Willand and Halberton.
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1. In the Local Plan the site is identified and designated as for Commercial Use;
 - 1.1 Currently, under the Local Allocation Plan, the site is designated for Business/Employment/Commercial use. It is part of a much larger site designated in two phases. Phase 1 has only been partially developed.
 - 1.2 Under the current consultation process to set the planning strategy for the next period of time MDDC has recommended the retention of this site for Commercial Use.
 - 1.3 It is removing Phase 2 from the current plan and reducing the Settlement Area boundary to reflect up to date research as to requirements. The current application site is still identified as needed for commercial use.
 - 1.4 This is reducing available Commercial land within Willand no doubt to reflect the appearance of 'business sites' outside of the Parish boundary in open countryside which have developed under changes in legislation as 'farm diversification'.
 - 1.5 This current Commercial site is one of only two Commercial Sites to be allocated in rural areas within the MDDC area.
 - 1.6 It should be recognised that Willand has the highest village population density within the MDDC area after the three main towns. Workers have to 'commute out' for employment which increases car journeys thereby adding to the carbon footprint - not reducing it. Employment sites and opportunities are needed within the village.

- 1.7 Arguments are raised in relation to availability of public transport to other areas together with availability of cycle and pedestrian paths. There are such available facilities but not necessarily at the times and in the locations needed.
- 1.8 Loss of employment land substituted with dense housing does not contribute to policy and making Willand a 'sustainable community'.
- 2. Local concerns over drainage issue being aggravated with the proposed intense development;
 - 2.1 Local Residents in nearby existing properties have been having drainage and other water related issues for some time since the construction of the Business Park. They have concerns that the proposed raising of the land level and the proposed development with considerable increase in 'hard' surface areas will aggravate the position.
 - 2.2 It is noted that the Environment Agency have concerns leading to current objection to the proposals;
 - 2.3 Local people who have a long history recollection of the area advise that water will find its way to the area of the Splatford Stream and aggravate land flooding which has already been experienced as increasing in the area which at times affects the road to Halberton, some properties and the large electrical installation and potentially the sewage works.
 - 2.4 There are issues raised in relation to the design and location of current water mains.
- 3. The proposed housing density and design will be inconsistent with a designated village location and not provide for adequate private or public open space and parking;
 - 3.1 The proposed development is too dense in practical and local planning policy terms for a village location. Willand is a VILLAGE not a town as stated.
 - 3.2 Although subject to 'reserved matters' at a later date the Design and Access Statement refers to 'modern contemporary cottages' and 'contemporary with an industrial reference'. This is considered locally in plain English as 'densely packed together little boxes'.
 - 3.3 There is a lack of provision in the outline for private, and more importantly, public open space for safe play. The mentioned 'pocket parks' locations are not consistent with specimen housing layout. Contributions for offsite provision would be meaningless as a current survey identifies a considerable shortfall of public open space within Willand and there are no areas where this additional offsite provision could be realistically and beneficially provided.
 - 3.4 The police have already raised concerns with the proposed design in relation to security and public safety.
 - 3.5 It is considered that the development would fail Policy DM2 in a number of areas to satisfy criteria for High Quality Design.
- 4. The proposed housing development will be 'sandwiched' between two industrial sites and would not be consistent with good housing policy;
 - 4.1 Persons using business premises on both sides of this proposed housing development have expressed concerns that should housing be permitted on the site it could lead to complaints from residents as to the operation of businesses which could then lead to constraints being placed on their future operations which could then affect their viability.
- 5. Access to already inadequate local services would be difficult and potentially dangerous in some cases;
 - 5.1 The access from the site onto the roundabout and road network will result in greatly increased vehicle movements.

- 5.2 Pedestrian access to the main facilities within the village, particularly the school and main play areas to name but two, will require the use and crossing of at least two busy roads where there is only a pavement on one side and crossing places are not controlled. One road also carries heavy goods vehicle traffic to industrial sites.
- 5.3 Although policy suggests that it would be acceptable for public open space and play areas to be some 10 minutes away it is asked what parent would allow young children to travel to them in this area without supervision.
- 6. Lack of tangible local support for further housing development in Willand supported by considerable demonstrated local opposition;
 - 6.1 The consultation process by the developer claims local support for housing at this site. An examination of the pointed selective questions asked shows a preference by some for this site rather than others proposed outside of the Settlement Area.
 - 6.2 The comment has to be balanced by a capacity village hall public meeting to discuss the local plan where no one spoke in favour of additional housing in the village but many spoke against. There was also a petition submitted to MDCC where well over a third of the voting population made it clear that there was no support for further development.
 - 6.3 The Parish Council sought guidance from the village as to how they should respond to this particular application and those who responded were 5 to 1 against further housing at this location and made the point that the employment potential land should be retained within the village to reduce 'outward commuting'.
- 7. Shortage of infrastructure and accessible public services some requiring travel to nearby towns;
 - 7.1 The Toddlers and Pre School are over capacity as is the Youth Club and other youth groups.
 - 7.2 The Doctors Surgery is only a Branch Surgery which is part time and not fully provided in accord with indications. Patients are regularly being offered appointments requiring travel to Cullompton.
 - 7.3 The Primary School is considered to be oversubscribed but it is now noted that through some creative manipulation of certain provisions and figures by DCC that they say it has capacity. If that were the true case why is it that the school hall does not comply to allow proper dining or other activities and regular recourse has to be made to use the village hall?
 - 7.4 Retail facilities are limited due to past poor planning decisions but the potential of a new shop on the Business Park will go some way to address that.
 - 7.5 Identified provision of a community centre by DCC over 40 years ago is still sought.
 - 7.6 The local allotments are fully subscribed with a waiting list and there is no room for expansion. A current MMDC commissioned report states that there is sufficient allotment provision but local community representatives know this to be incorrect.
- 8. Concerns as to the credibility of the argument put forward to justify being unable to let or sell the site for current permitted use;
 - 8.1 The applicant has put forward a bulky document to show and justify that they have been unable to let the whole site for the intended commercial use and therefore wish to build houses as an alternative to 'make their profit'. Concerns are expressed as to the evidence provided. It is known of applicants being turned away and many others have stated that the conditions and financial requirements have made it unattractive.
 - 8.2 It is known that the planning case officer has other 'confidential marketing and viability information' which is not available to public scrutiny which in itself raises concerns.
 - 8.3 The current application by a retailer to build a food shop on part of the site shows that positives can be achieved to provide employment on the site.

- 8.4 Whilst not directly connected to this site the owners of another site not 200 yards from the current one put forward argument that they could not let or sell business premises and put forward an outline application for housing. When the application was refused ALL of the units were let on 10 and 15 year leases and within months the site was in full occupancy for commercial use.
- 8.5 It is not considered appropriate that the planning system should be used, and local communities potentially disadvantaged, to allow a landowner/developer to resolve an earlier poor investment decision.
9. Concerns as to future provision for Willand Parish as the site is split between two Parishes - Willand and Halberton.
- 9.1 It is sure to be argued that this is not a planning matter but be assured it is very relevant to the Parish Council and the future wellbeing of the residents. The site is split between two parishes and therefore any agreed payments toward infrastructure and the future council tax precept will be shared. In reality all of the potential residents will be looking to use infrastructure and facilities provided and paid for by the residents of Willand. This issue has already been raised with the MDDC Chief Executive in anticipation of this application.

10. Conclusion.

Willand Parish Council, on behalf of its residents, repeats our objection to this application in the strongest possible terms.

17th February 2015 - Willand Parish Council was asked to review and comment on a revised 'Flood Risk Assessment' which had been submitted to deal with an objection by the Environment Agency. Nothing in the current report changes the objection and views expressed in our previous response of 14th January 2015 in relation to the whole application, although looking at the new information supplied raises a question about the boundary line in appendix A.

16th March 2015 - Willand Parish Council maintains its very strong objections to this application as set out in their letter of 14 January 2015. It is noted that the Environment Agency has removed its objection in the light of the information supplied by the applicant. Local concerns remain.

The applicants commissioned, selective, Noise Assessment does not change the view of the Parish Council as the noise and smell concerns are more likely to materialise from current businesses on the Mid Devon Business Park in hot weather when doors and windows are left open.

HALBERTON PARISH COUNCIL - 11th March 2015

The Parish Council recommended that the additional information had not altered its previous views, and therefore its previous comments submitted to Mid Devon District Council regarding this application should remain. In addition the Parish Council wishes to have it noted that the noise level tests were carried out on a cold winter's day when all factories in the vicinity would have had their doors and windows closed.

16th January 2015

The Parish Council recommended refusal on the following grounds:

1. This site is identified in the Local Plan for commercial use and should be retained as such and not converted in part to residential use.
2. The mix of residential and commercial/industrial use in close proximity on the same site will lead to complaints from proposed residents (noise, noxious smells etc) and is therefore not compatible.

3. Willand is a village, not a town as appears in some paperwork, and therefore should only be considered for minor development as per the Local Plan. This application is major development.
4. The adjacent South View Industrial estate has recently undergone major redevelopment but is now almost completely let and Halberton Parish Council therefore does not accept the argument that this site is unviable for commercial use.
5. In the opinion of Halberton Parish Council it is not the correct policy for the LPA to bale out a developer by changing land usage policy simply to allow a developer to make a profit.
6. Willand, with its present infrastructure and public services (schools doctors etc) would be unable to accommodate such a large increase in population, when combined with other development in the forward planning review and would lead to an increase in traffic movements.
7. The loss of this industrial site and replacement to a residential site will lead to even more outward movements of people seeking employment which is again against Local Policy.
8. There are drainage issues already on this site and the proposed developments could well exacerbate those issues.
9. Whilst it is claimed that extensive local consultation has taken place - no such consultation has taken place in the Parish of Halberton in which half the Mid Devon Business Park is within (Unanimous).

ENVIRONMENTAL HEALTH - 16th March 2015

Contaminated land - Comments of December 2014 apply

Air quality - A low Emissions Strategy will be required

Drainage - I have no objections to these proposals

Noise and other nuisances - The noise assessment carried out with the application details that the current sound levels across the site have shown that the industrial neighbours are not noisy. However, I do have concerns with regards to an escalation of future noise levels from activities on this site. Therefore I recommend the following noise conditions for the site:

A 2m high solid heavy timber fence (acoustic barrier) should be erected on the Western site boundary adjoining the neighbouring commercial premises. A management plan will need to be undertaken and submitted to the planning authority quantifying the future management responsibilities of the barrier.

Acoustical architectural design must be incorporated in the house designs. The rooms should be oriented in such a way as the kitchens and bathrooms are placed towards the Western boundary whilst bedrooms and living rooms face away from the boundary. Any walls facing the boundary should be soundproofed and by eliminating windows and other openings from the wall, the wall will then act like a sound barrier for the rest of the building.

Any windows which have the potential to open out onto the Western boundary should offer at least 31 dB Rw sound insulation.

A prior commencement condition is required to check the specifications of the required works and future management.

Housing standards - No objections

Licensing - N/a

Food hygiene - N/a

Private water supplies - N/a

Health and safety - No objections

6th January 2015

Contaminated Land - 1. Site Characterisation

An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature

and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

(i) a survey of the extent, scale and nature of contamination;

(ii) an assessment of the potential risks to:

- human health,
- property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
- adjoining land,
- groundwaters and surface waters,
- ecological systems,
- archeological sites and ancient monuments;

(iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

2. Submission of Remediation Scheme

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

3. Implementation of Approved Remediation Scheme

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

4. Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 1, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 2, which is subject to the approval in writing of the Local Planning Authority. Following

completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 3.

Air Quality - No objections

Drainage - No objections

Noise & other nuisances - No objections

Housing Standards - No objections

Licensing - N/A

Food Hygiene - N/A

Private Water Supplies - N/A

Health and Safety - No objections

ECONOMIC DEVELOPMENT OFFICER - 19th February 2015

I am of the opinion that this site should not be granted permission for change of use from employment land to residential. I believe that the documents provided show that a lot of effort was made to market the site, but it is difficult from the evidence submitted to see if it was marketed at a reasonable price. Documents put forward to support the application show figures that don't correlate with each other and appear to vary depending on which of the documents you read. They also do not seem to correlate with figures held on public record through land registry searches.

The level of interest in the site was significant, vastly greater than any of our other sites in Mid Devon, and yet the enquiries resulted in relatively little take-up. The Council was provided with a number of reasons for this lack of take-up:

Location - It is argued that the site's location is poor. I don't believe that this is the case as the site wouldn't have generated the level of interest it did if something as fundamental as its location was a problem.

Access to employees - there are fewer than 500 unemployed people in Mid Devon, but there is a significant outward travel to work pattern (i.e. many of our residents work outside the local authority area and fewer travel into Mid Devon from outside for their work). For businesses to set up at the business park, there would be an opportunity to draw people back into the area for work purposes. Most people would rather travel a shorter distance to their place of work than a long distance.

Access to major transport links - Access to both sides of the M5 is less than a 5 minute drive from the site, and the same can be argued about the rail links. Tiverton Parkway is on the main route into (and out of) the South West and links people with London, the Midlands and beyond. Almost every train coming into Devon stops at Tiverton Parkway. There is even a cycle route from Tiverton Parkway that goes directly past Mid Devon Business Park. Exeter Airport is less than a 20 minute drive from the site and Bristol Airport is just over an hour from the site.

Competition - Other business parks have sprung up in the vicinity of Mid Devon Business Park, but their offers are significantly different. Hitchcocks Farm offers converted tin shed units and low budget business accommodation. Swallow Court targets a similar market to that anticipated to occupy Mid Devon Business Park, but does so on a much smaller scale.

The land owners state that of the 16 units currently occupied, 6 are from the local area, 7 are from the rest of the County, and 3 are from the rest of the UK. They use this as an argument that the site hasn't attracted inward investment, yet the figures show that 63% of occupants are inward investors to the Mid Devon area and that almost 20% of those are from the rest of the country. These figures are actually positive for Mid Devon, where previous levels of

inward investment have been low, and the economy has widely been driven by local companies expanding from within the local authority area.

Being fair to the land owners, they have followed a reasonably logical process in trying to develop the land. They have first tried to get a decent Return on Investment (ROI) while marketing it as employment land, but failed to achieve outcomes that will meet their ROI target. Their next effort is to apply for change of use as they seem to believe that this is the only way they can recoup the money spent on promoting the site, and the initial investment. However, a lack of return on investment for the land owner does not imply that the site itself is not viable employment land, and therefore I would argue it is not a valid argument for change of use. As markets ebb and flow, some investments will make a profit and others won't, and we cannot start relaxing policy to protect the investments of private companies.

Since being in post I have offered to support economic development at Mid Devon Business Park, though the land owners seem to have already reached a stage where they no longer see a point in marketing it for commercial use. Whatever the outcome of this application, we must provide support to help make the site a success story for Mid Devon.

SOUTH WEST WATER - 2nd January 2015

With reference to the planning application at the above address, the applicant/agent is advised to contact South West Water if they are unable to comply with our requirements as detailed below.

Please find enclosed a plan showing the approximate location of a public water main in the vicinity. Please note that no development will be permitted within 3 metres of the water main. The water main must also be located within a public open space and ground cover should not be substantially altered.

Should the development encroach on the 3 metre easement, the water main will need to be diverted at the expense of the applicant. The applicant/agent is advised to contact the Developer Services Planning Team to discuss the matter further.

If further assistance is required to establish the exact location of the water main, the applicant/agent should call our Services helpline on 0344 346 2020.

South West Water will only allow foul drainage to be connected to the public foul or combined sewer. Permission will not be granted for the surface water from this site to return to the public combined or foul sewerage network. We will request that investigations are carried out to remove the surface water using a Sustainable Urban Drainage System, such as a soakaway. If this is not a viable solution to remove the surface water, please contact the Developer Services Planning Team for further information.

From 1st October 2011 ownership of private sewers transferred to South West Water under the Private Sewer Transfer Regulations.

If you think that your proposed works will be over or within 3 metres of a public sewer, further information can be found on our website www.southwestwater.co.uk/privatesewers (Help and Advice)

DEVON COUNTY COUNCIL - STRATEGIC PLANNING AUTHORITY (EDUCATION)
7th January 2015 - A contribution towards education infrastructure via a Section 106 Agreement is sought.

All developments once approved will be deemed built and therefore affect the forecast pupil numbers at the schools within the area.

The primary school within 1.5 mile radius of this development has capacity for the expected number of pupils generated by this development. Therefore no contribution is required to increase education facilities in the area.

The secondary schools within the development area is Cullompton Community College which currently has capacity for the secondary aged pupils expected to be created by this development, however as this school is further away than the recognised safe walking distance to school we do require a school transport contribution to the sum of £41,182.50 for the 15 secondary aged pupils. A breakdown of the costs follow.

£2.89 per pupil per day x 190 days in academic year x 5 years in secondary school x 15 pupils generated by this development = £41,182.50

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.

Should you require any further information regarding either of the above please do not hesitate to contact me.

*These contributions should be adjusted on the date of payment in accordance with any increase in Building Cost Information Service (BCIS) all in tender price index.

5th March 2015 - Further to our letter dated the 6 January 2015 re the above development, please find attached a letter from the school regarding the challenges of the current site and difficulties for admitting children up to their assessed net capacity. The school highlights that it has sufficient teaching accommodation to mitigate the impact of the development but is undersized in specific areas when compared against national guidance, principally hall/studio space.

Therefore, Devon would ask the Local Planning Authority to seek an additional contribution towards to mitigate the impact of this development on these specific areas at a rate of £500 per eligible dwelling (2 bedroom plus). The amount is based on Devon's expansion rate per pupil and the analysis of a standard 420 place schools and the size of the hall/storage/circulation when compared to the overall school built area (circa 15%).

DEVON & CORNWALL POLICE AUTHORITY - 2nd January 2015

While appreciating this is outline it is worth pointing out at this early stage that the foot path at the southern aspect running West to East is wholly unacceptable allowing unobserved access behind all those properties. It is recognised that where possible a foot path or cycle route should be on the main arterial roads to prevent casual access, and serve the development. There are a number of other minor footpaths that together will attract an objection from the police citing crime and disorder as a material consideration. I would request early consultation with the architect/planning department in order to address these serious concerns, and ensure they are not duplicated on the actual application.

NATURAL ENGLAND - 7th January 2015

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

The Wildlife and Countryside Act 1981 (as amended)

The Conservation of Habitats and Species Regulations 2010 (as amended)
Natural England's comments in relation to this application are provided in the following sections.

Statutory nature conservation sites - no objection

Based upon the information provided, Natural England advises the Council that the proposal is unlikely to affect any statutorily protected sites or landscapes.

Protected species

We have not assessed this application and associated documents for impacts on protected species.

Natural England has published Standing Advice on protected species. The Standing Advice includes a habitat decision tree which provides advice to planners on deciding if there is a 'reasonable likelihood' of protected species being present. It also provides detailed advice on the protected species most often affected by development, including flow charts for individual species to enable an assessment to be made of a protected species survey and mitigation strategy.

You should apply our Standing Advice to this application as it is a material consideration in the determination of applications in the same way as any individual response received from Natural England following consultation.

The Standing Advice should not be treated as giving any indication or providing any assurance in respect of European Protected Species (EPS) that the proposed development is unlikely to affect the EPS present on the site; nor should it be interpreted as meaning that Natural England has reached any views as to whether a licence may be granted.

If you have any specific questions on aspects that are not covered by our Standing Advice for European Protected Species or have difficulty in applying it to this application please contact us at with details at consultations@naturalengland.org.uk.

Local sites

If the proposal site is on or adjacent to a local site, e.g. Local Wildlife Site, Regionally Important Geological/Geomorphological Site (RIGS) or Local Nature Reserve (LNR) the authority should ensure it has sufficient information to fully understand the impact of the proposal on the local site before it determines the application.

Biodiversity enhancements

This application may provide opportunities to incorporate features into the design which are beneficial to wildlife, such as the incorporation of roosting opportunities for bats or the installation of bird nest boxes. The authority should consider securing measures to enhance the biodiversity of the site from the applicant, if it is minded to grant permission for this application. This is in accordance with Paragraph 118 of the National Planning Policy Framework. Additionally, we would draw your attention to Section 40 of the Natural Environment and Rural Communities Act (2006) which states that 'Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity'. Section 40(3) of the same Act also states that 'conserving biodiversity includes, in relation to a living organism or type of habitat, restoring or enhancing a population or habitat'.

Landscape enhancements

This application may provide opportunities to enhance the character and local distinctiveness of the surrounding natural and built environment; use natural resources more sustainably; and bring benefits for the local community, for example through green space

provision and access to and contact with nature. Landscape characterisation and townscape assessments, and associated sensitivity and capacity assessments provide tools for planners and developers to consider new development and ensure that it makes a positive contribution in terms of design, form and location, to the character and functions of the landscape and avoids any unacceptable impacts.

Impact Risk Zones for Sites of Special Scientific Interest

Natural England has recently published a set of mapped Impact Risk Zones (IRZs) for Sites of Special Scientific Interest (SSSIs). This helpful GIS tool can be used by LPAs and developers to consider whether a proposed development is likely to affect a SSSI and determine whether they will need to consult Natural England to seek advice on the nature of any potential SSSI impacts and how they might be avoided or mitigated. Further information and guidance on how to access and use the IRZs is available on the Natural England website.

6.0 REPRESENTATIONS

One letter of support received, summarised as follows:

- Support the development of houses here rather than the development proposed at J27.

One representation received from the owners of the remainder of the allocated employment land WI1, to the north of the application site, summarised as follows:

- Do not object in principle to the current application but wish for the following comments to be taken on board;
- The Council should be satisfied that if residential development is approved it will not undermine the delivery of the remainder of the allocated land;
- Query the compatibility of residential development with noise and traffic associated with the future development of the remaining allocated land;
- Access rights to the northern parcel of the allocated land (that owned by the persons making the representation) have been successfully negotiated. A planning application is now being prepared for the development of the site for employment purposes with Pallex South West identified as an end user of the site.

14 letters of objection received, including from Cllr Bob Evans (one of the Ward Members), summarised as follows:

- The site was designated for a business park and should remain as such;
- If the owners are charging too much it is their problem to address;
- 97 houses is too many;
- The primary school is oversubscribed;
- Willand has no infrastructure to support the dwellings or the occupants;
- It will change the structure from a large village to a small town;
- Will disrupt traffic on the busy roundabout;
- Village needs employment more than houses;
- Building houses in an industrial estate is wrong;
- Health & Safety conflict with children & commercial traffic;
- No need for housing as the Local Plan allocates sufficient land;
- No additional housing applications should be agreed until the Local Plan Review process is complete;
- The Local Plan Review document does not propose to allocate large scale housing for Willand;
- Not enough garages proposed;
- Raising of ground levels will increase traffic and potentially create health issues;

- Noise assessment was carried out on a cold, wet day when the adjacent businesses would have doors and windows shut. If the windows and doors were open in warmer times this would result in a different level of noise;
- The existing B1, B2 and B8 use restrictions on the Business Park were imposed to secure a reasonable amenity on the adjacent homes and the Public House;
- Concerned that as much of the site is in Halberton parish, infrastructure contributions would go to them, despite the site being in the village of Willand;
- Previous studies in the area for the business park identified the presence of rare plants/orchids;
- Flooding is an issue on Muxbeare Lane;
- The land between the footpath and the M5 has flooding issues;
- It is the price of the units, not the location, that is the reason the site is undeveloped;
- The small units that were built were overpriced for this part of the country, which is why they were rented out;
- Have a business on the adjacent industrial estate and have a lot of comments from customers and transport companies about how convenient we are to get to;
- Two local companies have applied to move to the site but their requests were refused, while other interested parties have been put off.

7.0 MATERIAL CONSIDERATIONS

The main issues in the determination of this application are:

1. **Planning history, planning policy and the use of employment land for non-employment purposes**
2. **Five year housing land supply**
3. **Suitability and compatibility of housing in this location**
4. **Highways**
5. **Flooding and drainage**
6. **S106 contributions**
7. **Other matters**

1. **Planning history, planning policy and the use of employment land for non-employment purposes**

The application site forms part of the W11 'Willand Industrial Estate' employment allocation contained in the Local Plan Part 3 (Development Management Policies). This policy was retained from the previously adopted Local Plan dating from 2006 and allocates a total of 11.7 hectares for business (B1), general industry (B2) and storage and distribution (B8) purposes. Outline planning permission for the whole of the allocation for employment purposes was granted at the end of 2005. Reserved matters applications for part of the southern half of the site were subsequently granted in 2006 and 2008 and resulted in the provision of the 19 employment units currently built. The original outline planning permission granted in 2005 has now lapsed with no further planning permissions for the erection of employment units being granted. The units that have been developed were built by the London and Devonshire Trust (LDT) who are the owners of the application site and the parent company of Devonshire Homes, the current applicants. The northern half of the allocated site is in a third party ownership, with the two ownerships separated by a public footpath which bisects the allocation.

Paragraph 22 of the National Planning Policy Framework states the following:

Planning policies should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose. Land allocations should be regularly reviewed. Where there is no reasonable prospect of a site being used for

the allocated employment use, applications for alternative uses of land or buildings should be treated on their merits having regard to market signals and the relative need for different land uses to support sustainable local communities.

Mid Devon has built on this paragraph through the production and adoption of the Local Plan Part 3 (Development Management Policies) and in particular policy DM21.

Policy DM21 of Local Plan Part 3 (Development Management Policies) relates to the protection of employment land and states the following:

Non-employment use or development of employment land or buildings, including sites that are established, allocated or have planning permission, will be permitted where it can be demonstrated that there is no reasonable prospect of the site being used for employment purposes. Alternative uses will be permitted where it is demonstrated that:

- a) Firstly, there is sufficient range of suitable and available employment sites in the local area; then*
- b) There is no commercial interest in the re-use of the site for employment, demonstrated by suitable marketing at an appropriate price for at least 18 months;*
- c) A sequential viability test has been applied following the unsuccessful marketing of the site, based on the following sequence of testing:*
 - i) Mixed use of the site that incorporates an employment-generating use, then*
 - ii) Non-employment use*

The application has been accompanied by a series of confidential documents and reports seeking to demonstrate compliance with the policy. In summary the documentation states that significant investment has been made in the site by LDT since purchase and that the 19 units constructed to date were done so speculatively at and around the time of the downturn in the global economy. This downturn hampered the letting/occupation of the units and they have never all be occupied – three units remain empty at the time of writing this report. It is nonetheless clear from the submitted evidence that significant levels of interest from both local and national businesses as well as from investors has been made since LDT began marketing the site in 2005/06.

In response to the first policy test, the applicant has made reference to Mid Devon's Employment Land Review (ELR, 2013) which concluded that there was an excess of employment land within the district. This fact is not disputed. Specifically the ELR states that there is an excess of 15-25 hectares within the district over the period to 2031. The ELR then recommends that the supply of employment land be rationalised, and gives particular reference to the quantity of allocated employment land tied up in large allocations. In response to the ELR, the Council has sought to reduce supply, through significant reductions in the quantity of floorspace sought through the Masterplanning process on the two urban extensions of Tiverton East and North West Cullompton. The ELR recommended maintaining a supply of smaller employment sites and specifically recommends the retention of the Willand W11 site as an allocation.

The applicant makes reference to the recent resolution to grant planning permission for just under 12,000sqm of employment floorspace at Hitchcock's Farm, just over a 1km to the north east of Willand and states that this will inevitably impact on the delivery of the application site. Officers are of the opinion that Hitchcock's Farm operates on a different business model, financing the construction or conversion of units in advance, rather than relying on 'design and build' arrangements which take time to deliver and offering more flexible contracts to occupiers as well as anecdotally, lower rents. The Hitchcocks Farm application demonstrated that this approach had resulted in being able to accommodate some businesses which needed to expand rapidly (though this is reliant on the available

buildings meeting the needs of potential suitors). The site at Willand Business Park also differs in that at present it offers a higher quality environment for business than Hitchcocks Farm, on a flat site which has been able to deliver modern premises (as opposed to agricultural conversions which form part of the offer at Hitchcocks).

It is acknowledged that Hitchcocks Farm will offer alternative employment provision within the vicinity, but given their different business models it is believed that there is scope for co-existence. Nevertheless the Council have taken on board the concerns about over provision of employment land in this location. Within the emerging Local Plan Review, the Council has sought to retain the site as an employment allocation, but in reduced form, removing the land to the north of the footpath and retaining the land subject of this application. As stated this recognises the need to reduce employment land in the district, but maintains the site on the basis that it is well located with good access to the motorway, is already serviced, offers a high quality environment and is an appropriate use, being adjacent to existing industrial premises. Since the agreement of this change by the Council as part of the Local Plan review, representation has been received on behalf of the owners of the northern part of the allocation, indicating that they are progressing the development of the site for employment purposes. To date no planning application has been received in relation to this land, however Officers understand that a planning application is likely to be submitted prior to an Examination in Public for the Local Plan review.

It is not considered that the approval of the site at Hitchcock's categorically means that criterion a) has been met. Similarly, if the land to the north of the footpath is delivered for employment purposes, it is not considered that this would undermine the delivery of the application site for employment purposes. On the contrary, should this occur, the application site would be bound on three sides by commercial activities and still maintaining excellent links to the M5 would be more likely to be an attractive prospect for businesses looking to expand or relocate.

In respect of criterion b) the applicant states that despite extensive marketing there is little commercial interest in the site for employment use. The policy states that this is to be demonstrated by an 18 month marketing period at a suitable price. Whilst the applicant has submitted a range of marketing material and some information pertaining to prices sought and achieved for land and buildings, Officers themselves are unable to conclude whether the prices sought have been suitable as they are not experts in this field. The price also needs to be demonstrated to be suitable in the context of what the market is prepared to offer and location is a significant determining factor. The supporting information makes reference to Taunton and Exeter; however these are not necessarily comparable markets to Mid Devon, as they would be expected to generate higher prices, being closer to markets in predominantly urban locations. Comparison should be made with more locally appropriate markets in order to be representative. It is notable from the supporting evidence provided that a number of businesses decided not to pursue their interest in moving to the site on the basis of price. It is therefore reasonable to question the appropriateness of the prices sought. Your officers are currently seeking an independent valuation of the land for employment purposes and some clarification on build costs of employment units going back to 2008 in order to corroborate the information provided by the applicants in relation to the overall value of the land and design and build quotes given to interest parties. At the time of writing this information has not come back from the consultants but an update will be provided when received and this will be used to inform whether or not additional reasons for refusal are recommended on the grounds of compliance or otherwise with policy DM21 and paragraph 22 of the National Planning Policy Framework.

Furthermore, the land owner does not appear to have made any attempts to utilise available pots of grant funding, such as European Growth Funding, in order to aid the viability of the site and deliver the development of all or part of the remaining undeveloped site. Your Economic Development Officer is surprised that such avenues have not been explored, especially as the company and their parent company Devonshire Homes, have benefited from available funding pots in order to deliver other sites (for example, Belmont Hospital).

Criterion c) states that a sequential viability test should be applied which should consider a mixed use of the site incorporating some employment, prior to consideration of a non-employment use. No such assessment is set out within the application, though a viability appraisal examining the commercial use of the site is provided. The applicant contends whether anything can be gained by examining alternative uses, but does welcome guidance on what would be required. To begin to address this policy criterion the viability appraisal should consider alternative development scenarios. These should examine the viability of the site for uses which include a proportion of employment (i.e. in addition to the employment units already constructed). Only if this can be demonstrated to be unviable should consideration be given to a full residential scheme.

2. Five year housing land supply

Paragraph 47 of the National Planning Policy Framework sets out the requirement for Local Planning Authorities to demonstrate on an annual basis that they can provide five years worth of housing against their housing requirements, with an additional buffer included of either 5% or 20% dependent on past housing delivery rates.

The Council's five year land supply calculations are set out in the Strategic Housing Land Availability Assessment 2014. The document compares housing supply, based on allocations, planning permissions, sites under construction and completions against delivery targets. The document concludes that the five year land supply stands at 107%, or 5.35 years supply.

The applicant contests the methodology used to calculate this figure, rather than the supply figures themselves (though reserves the right to revisit these later). The applicant relies on housing delivery targets set out in the Core Strategy (2007), of 390 dwellings per year for the first ten years of the plan, and 290 for the final ten years. However, the Core Strategy did not contain development allocations, these being included in the Allocations and Infrastructure Development Plan Document adopted three years later. The Core Strategy set the vision and spatial strategy for the district, but it was the role of the Allocations and Infrastructure Development Plan Document to implement this vision through the allocation of land for particular uses.

In allocating sites to meet the development needs of the district, the Allocations and Infrastructure Development Plan Document acknowledges the requirement to demonstrate a five year supply of development sites. The Core Strategy requirement of 340 dwellings per year (the average of the Core Strategy overall target of 6800) is used as the basis to assess whether the allocations proposed ensure the Council can demonstrate a five year supply of housing land. In examining the document, the Inspectors accepted the allocations proposed, their commencement dates and delivery rates and accepted the use of the 340 annual target against which to calculate the five year supply. Indeed, the housing delivery trajectories included in the Allocations and Infrastructure Development Plan Document indicate that only in 6 of the 10 years from 2006 – 2016 was it projected (or already confirmed for the years preceding the examination of the document) that at least 390 dwellings per year would be delivered, compared to 9 out of the 10 years if using a target figure of 340 dwellings per year. The soundness of the plan and its accord with the Core Strategy is confirmed in the non-technical summary of the Inspector's report:

'The Mid Devon Allocations and Infrastructure Development Plan Document [DPD] provides an appropriate basis for the development of individual allocated sites and related infrastructure across the District up to the year 2026 in accordance with the previously adopted Core Strategy.'

Although in their full examination report, the Inspectors did not make explicit comment regarding the delivery of 340 dwellings per year, they did question issues such as achievable dwelling numbers during the plan period on the Tiverton Eastern Urban Extension and Blundells School sites, clearly indicating that they were appraising the stated housing trajectories. In addition they adjusted the action levels for housing monitoring in policy AL/DE/1; these figures are based on the provision of 340 dwellings per year from 2011 – 2016 a further indication that the Inspectors considered the use of a figure of 340 dwelling per year as an acceptable target on which to base housing allocations and delivery rates.

Furthermore, the applicant made a representation during the consultation period on the submission version of the AIDPD in 2009, and though they made specific comments on the five year supply as proposed by Mid Devon, did not raise any issue with the use of the 340 figure. This would have been an appropriate time to highlight their concern.

The 340 figure has subsequently formed the basis of the Council's methodology for calculating the five year supply for the five years since the document was adopted. It is also an approach that has been endorsed by the Council's SHLAA (Strategic Housing Land Availability Assessment) panel. Given the approach has been approved by the planning inspector in determining the soundness of the AIDPD, it is appropriate that the Council continue to use it as the basis for undertaking its calculations.

Notwithstanding the above justification for the application of the 340 dwellings per year, section 38(5) of the Planning and Compulsory Purchase Act 2004 (as amended) states that if a policy conflicts with another policy in the development plan, the conflict must be resolved in favour of the policy which is contained in the last document to be adopted. In this instance, the Allocations and Infrastructure Development Plan Document was adopted in 2010 as opposed to the 2007 adoption of the Core Strategy (Local Plan Part 1) and therefore the 340 figure in the Allocations and Infrastructure Development Plan Document is that to be used for the purposes of assessing housing supply.

The applicant also provides two calculations setting out the effect of applying an additional buffer of 5% or 20%, the latter being only applied if 'there is a persistent record of under delivery' (NPPF para. 47). The applicant states that applying either number results in Mid Devon not being able to demonstrate a five year supply. However, those calculations use the 390/290 housing figures. Application of the 340 figure indicates that Mid Devon does have a five year supply, if applying the 5% buffer, but not the 20%. The National Planning Practice Guidance states that identification of persistent under delivery (when the 20% figure should be used) is more robust if a longer term approach is taken, which takes account of the economic cycle. Examination of the last 10 years of housing completions demonstrates that until the credit crunch and recession seriously disrupted the economy and in particular the construction industry (locally resulting in lower completions from 2009/10), completions were consistently above, and often quite far in excess of the 340 annual figure. Mid Devon has been an active district in seeking to meet its identified housing need, being one of the earliest local authorities with an adopted Core Strategy and subsequent allocations DPD. In the opinion of Officers, it is unreasonable to assert that because of the global macro-economic slowdown which has affected construction growth across the country, Mid Devon should be highlighted as a persistent under deliverer of housing. The 2014 Annual

Monitoring Report identifies that 320 dwellings were completed in the preceding 12 months, only 20 dwellings short of the required 340 dwelling figure. In addition, a further 356 dwellings are under construction and there is planning permission for more than 1000 dwellings in the District. Contingency sites are also allowed for under the Allocations and Infrastructure Development Plan Document totalling 465 dwellings. Their release has not been triggered to date based on housing delivery rates. The use of the 5% buffer is therefore considered appropriate and results in the Council being able to demonstrate the existence of a five year housing supply.

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3. Suitability and compatibility of housing in this location

One matter of concern raised by both consultees and objectors is the compatibility of the proposed housing with the adjacent commercial activities on both the Mid Devon Business Park and the Willand Industrial Estate. To the west of the site lie the two large B8 storage and distribution buildings of Pencarrie, a clothing distributor; a current planning application seeks to extend both of the existing buildings by a total of over 2,000 square metres to bring development almost up to the boundary of the application site. To the east of the site are the 19 B1, B2 and B8 commercial units constructed by LDT. These units are significantly smaller than those of Pencarrie but would continue to be accessed from the same estate road off the Four Cross Ways roundabout as the proposed housing. Of final note is the potential for the land to the north of the application site to come forward for employment purposes given the presence of a legal agreement to secure access to the site via LDT's Mid Devon Business Park land. This agreement has been seen by your Officers and it allows up to two spurs to be constructed from the LDT land to serve the land to the north; this would have the potential to necessitate the travel of commercial traffic through any proposed housing estate. However, to date no planning application has been received to develop this land to the north, the weight to be attributed to the potential for the land to the north to be developed is considered to be low.

A noise assessment has been submitted by the applicants following concerns regarding compatibility of uses raised by Environmental Health Officers. This noise assessment was carried out in February 2015 and found no fixed plant noise along the western boundary with Pencarrie and little discernible activity noise from the same site. Businesses operating on the Mid Devon Business Park did not appear to have any external fixed plant emitting noise and there were occasional vans and cars coming and going on the service road. The noise of traffic from the M5, 250m to the north of the application site dominated the soundscape across the site. Noise monitoring equipment was used to record sound levels on the site for a week. The survey concludes that noise levels are acceptable for residential development to occur on the site, in line with criteria set out in the National Planning Policy Framework, Planning Practice Guidance and the Noise Policy Statement for England and no formal mitigation is required, although a number of prudent measures are recommended for inclusion in any development to minimise the likelihood of future noise complaints.

Environmental Health Officers have commented on this survey and are content with its current findings. However, they have concerns with regards to an escalation of future noise levels from activities on this site should operations/occupiers change over time. Therefore they recommend the imposition of a number of noise conditions for the site to secure an acoustic barrier along the western boundary with Pencarrie, the incorporation of acoustical architectural design to orientate principle living and sleeping rooms away from the western boundary and minimal sound insulation properties for windows opening to the west. Subject to the inclusion of such measures in any detailed proposals for the site it is not considered that an objection to the application could be sustained on the grounds of conflict with the neighbouring uses on noise grounds.

Although on noise grounds alone the development of the site for housing is considered to be acceptable, this does not assess the desirability of having housing developed on this site from a wider planning perspective, taking into account the physical form and type of development in the village and the scale of development proposed when assessed against sustainable development objectives.

Objection has been raised with regard to the scale of the development in relation to the size of the village and infrastructure requirements; considerations of infrastructure requirements are given in section 6 of this report.

Willand has grown significantly in the last 20-30 years such that it is now a large village, with the Parish of Willand having a population of 3,330 in 1,368 households based on 2011 Census statistics. There has been no significant additional housing developed in the Parish since then to alter reliability of these statistics. The provision of 97 houses would represent an increase in household and population of approximately 7%. Policy COR17 of Core Strategy (Local Plan Part 1) identifies Willand as a village suitable for minor proposals within the defined settlement limits, with policy COR12 of the same document setting out the development focus for the District, identifying a development rate for the whole District outside of the four main towns of 55 dwellings per year, a much lower development rate for the rural areas where historic growth rates have been high. The development currently proposed would therefore account for almost two years of residential development targeted for areas outside of the four main towns. It is clear that the proposed development represents a significant development of housing both for the village and for the rural villages and areas of the District as a whole.

The purpose of the National Planning Policy Framework is to contribute to the achievement of sustainable development (para. 6), with the planning system performing economic, social and environmental roles to deliver this. In respect of the social role, paragraph 7 seeks for housing supply to create a high quality built environment that reflects the community's needs. Paragraph 10 states that plans and decisions need to take local circumstances into account. Building upon this the Local Plan Part 3 (Development Management Policies) policy DM2 seeks to secure high quality design of new development, based upon and demonstrating amongst other criteria, a clear understanding of the characteristics of the site, its wider context and the surrounding area, a positive contribution to local character and visually attractive places that are well integrated with surrounding buildings, street and landscapes.

In this instance, the spatial development pattern of the village concentrates almost all of the employment and industrial development on the existing Willand Industrial Estate and on the Mid Devon Business Park, which are separated from housing in the village by the B3181 running through the village, South View Road and Station Road. The provision of residential development on this parcel of land would be out of step with the way in which development has been managed in the village and would represent a significant incursion into land which is from a spatial development perspective, best suited to commercial and employment development.

The proposed Local Plan Review, which is currently out for proposed submission stage public consultation, looks to allocate one site in Willand for residential development up to 2033 and for a total of 42 dwellings. As the document has not yet been submitted to the Secretary of State for examination it holds no weight, however the proposed inclusion of a single allocation of this size, which was arrived at following consultation with the public and the Parish Council, is an indication of the level of development which the community needs during the proposed plan period and which the community can support.

A further aspect to consider is the potential for B1 and B8 units to be converted to dwellings utilising permitted development rights (i.e. an application for planning permission is not required). The rights for B1 uses came into force in 2013, however Mid Devon has seen very few conversions take place under these rights. The rights for B8 uses come into force on 15 April 2015 and so it is not known how popular they will be in Mid Devon. Both provisions require a submission to the Local Planning Authority to be made to allow the consideration of certain matters. Whilst it may be possible for some of the existing employment units in Willand to be converted to dwellings, this is considered unlikely to be realised in any significant quantity as the demand and marketability of housing within the existing estates would be limited by the fact that the surroundings would remain in employment use. Your

Officers are of the opinion that these considerations be given little weight in considering the suitability of the application site for significant housing development.

To deliver 97 houses on the application site would be a significant increase in the size of the resident population of the village and would bring residential development onto an area of land which is, by the nature of the surrounding development and road network, best suited to employment development. For these reasons, the development of the site would not represent the high quality development required by policy DM2 of Local Plan Part 3 (Development Management Policies) as it would be out of context with the pattern of development in the village and would not be well integrated with surrounding buildings, streets and landscapes. Furthermore, such significant development in the village would not be a minor proposal in the context of policy COR17 of the Core Strategy (Local Plan Part 1). For these reasons, the development would fail to meet the sustainable development principles required to be met by the National Planning Policy Framework.

Some concerns have been raised regarding the density of development should 97 houses be proposed at reserved matters stage. The site area amounts to approximately 2.77 hectares, which with 97 dwellings would equate to a density of 35 dwellings per hectare. Such a density would not be unusual in a village setting. Nevertheless, it is noted that the Inspector in the appeal at the nearby Durban Works and former Westcountry Ambulance site (MDDC ref. 13/00304/MOUT) found that should any proposals at reserved matters stage not result in an acceptable layout, including considerations relating to the provision of private amenity space and parking, the Council would be able to refuse the proposals. Therefore, whilst the indicative layout submitted with the application would likely be unacceptable, particularly due to the use of parking courts and a lack of overall parking provision, it is not considered that there is sufficient evidence available at this stage to categorically conclude that 97 dwellings could not be accommodated on the site and refusal on this ground is not recommended.

4. Highways

The submitted Transport Assessment details that the surrounding road network and the Four Cross Ways roundabout off which the site is proposed to be accessed, has sufficient capacity for traffic arising from the proposed development and therefore the concerns raised regarding the capacity of the local road network are not agreed with; indeed, the application site is allocated for employment purposes which would generate traffic movements in itself. The Highway Authority does not object to the application and has indicated it is happy with the figures in the Transport Assessment, which have been revised since submission to take account of traffic arising from the proposed food store on the opposite side of the existing business park (planning ref. 14/02116/FULL).

The Highway Authority has requested that the Travel Plan for the development require the provision of bus and cycle vouchers for each property (£250 and £50 respectively) in order to encourage the use of alternative modes of transport. Willand has regular bus services to Tiverton and Exeter and the application site is in close proximity to Muxbeare Lane which forms part of the national cycle network route 3 and links to Tiverton Parkway railway station. The Highway Authority are also seeking a contribution of £10,000 toward the implementation of an already identified scheme of cycle parking at the station.

The Highway Authority is content with the details submitted regarding the three proposed access points and whilst one of the access points is indicatively shown to serve a parking court, the provision of which is discouraged by the adopted SPD on Parking and development, as the application is in outline with only access being determined at this stage, it is considered that the layout of the site could be arranged in such a way as to make the use of the access and the corresponding parking arrangements, acceptable.

Having regard to all these matters, in respect of highways considerations the application meets with the requirements of policies COR9 of Core Strategy (Local Plan Part 1) and DM2 of Local Plan Part 3 (Development Management Policies).

5. Flooding and drainage

Policy COR11 of Core Strategy (Local Plan Part 1) seeks to ensure that development is managed so as to reduce the risk of flooding, guiding development to sustainable locations with the lowest flood risk and ensuring that development does not increase the risk of flooding of properties elsewhere. In addition to this, policy DM2 of Local Plan Part 3 (Development Management Policies) states that sustainable drainage systems (SuDS) should be used where appropriate.

The site is within Flood Zone 1 as defined by the Environment Agency, indicating it is in the lowest risk group of river flooding. The far southern extremities of the site are identified as being at risk of surface water flooding and objection has been received regarding the impact of the existing Mid Devon Business Park development upon surface water drainage issues off-site and particularly in the Muxbeare Lane area. The application has been supported by a flood risk assessment which identifies that the site has already been serviced with foul and surface water drainage connections as part of it being serviced for employment purposes. The foul drainage connections are to the South West Water mains sewer network and the existing surface water drainage arrangement connects to an existing SuDS pond on part of the Business Park estate to the east of the application site, before being discharged to the highway drainage network. South West Water have confirmed that the existing foul sewer network has sufficient capacity to accept foul flows from the development.

A previous site investigation as part of the outline application for commercial development in 2005 concluded that “based on the high water table and predominantly clay based soils present it is considered unlikely that surface water drainage via soakaways would be possible at this site.” The proposed outline drainage strategy seeks to replicate the drainage principles outline in the flood risk assessment which supported the 2005 commercial development outline application. In order to do this it is proposed that the drainage strategy includes the use of the existing SuDS pond and also incorporates oversized sewers, cellular storage tanks and hydraulic controls. The Environment Agency has stated that it does not object to the development, finding that the proposed drainage strategy adequately aligns with the philosophy of SuDS and the strategy agreed as part of the 2005 outline application. Should planning permission be granted, adequate measures would need to be included to ensure that satisfactory measures for the maintenance and management of the non-adopted features were in place as well as specific details of the drainage strategy be agreed, based upon the final proposals. However, for the purpose of this outline planning application, the application is considered to meet with the requirements of policies COR11 of Core Strategy (Local Plan Part 1) and DM2 of Local Plan Part 3 (Development Management Policies) and is not considered to result in an increase in flood risk, including impact upon surface water run-off and drainage on or off-site.

6. Infrastructure and Section 106 contributions

If planning permission was to be granted, a Section 106 agreement would be required to secure any necessary infrastructure or financial contributions toward off-site infrastructure.

The development exceeds the threshold for the requirement of affordable housing provision and 35% of dwellings on the site would be required to be affordable, secured through a S106 agreement.

The submitted indicative layout indicates an area of public open space being proposed along the western boundary of the site, in the location of the former railway line. For a development of this size it would be expected for on-site public open space to be provided at a rate of 60 square metres per market dwelling. Such a requirement could be secured through a S106 agreement to include provisions for ongoing maintenance and management.

Concerns have been raised by both Willand and Halberton Parish Councils regarding the existing infrastructure in Willand and its ability to cater for the additional population arising as a result of this development. In particular there is concern regarding the capacity of Willand Primary School. Devon County Council has been consulted on the application and has commented on this matter. A modest extension to the Primary School in 2014 did not directly provide additional classrooms but allowed for some internal rearrangements to provide additional classroom space and the school now has a net capacity of 417 pupils, calculated using nationally prescribed methodology; at present there are 356 children on roll at the school although some of these current pupil numbers are to aid existing capacity issues in Cullompton and Uffculme primary schools. A new primary school is proposed to be provided as part of the development of the North West Cullompton allocation, whose masterplanning process is now underway and has been through one round of public consultation. The County Council are forecasting that September 2017 pupil numbers on roll would be 335 pupils (taking into account currently approved but unimplemented developments). The development proposed would generate 25 primary school pupils and the addition of this number of pupils would not take the school over its 417 net capacity figure; for this reason no primary education pupil place contribution is requested.

Discussions have been held with the County Council, County Council Elected Member and the Primary School regarding the undersized nature of the primary school hall. The school hall is insufficient when assessed against national guidance and has not been extended despite a significant increase in pupil numbers since the original school building and hall was constructed in 1948 as a single form entry; the school is now a three form entry and this results in significant pressures on the school in managing lunches, assemblies and PE lessons. Following discussions, the County Council have now requested a financial contribution of £500 per dwelling of at least 2 bedrooms in size toward the cost of expanding the school's hall space.

In addition, the County Council are requesting a financial contribution of £41,182.50 toward transportation costs of secondary school pupils to get to Cullompton Community College.

These contributions toward education infrastructure are considered to be justified and would accord with policy AL/IN/5 of the Allocations and Infrastructure Development Plan Document and the requirements of regulation 122 of the CIL Regulations 2010 (as amended).

Air quality in parts of Cullompton is poor and the Council has an adopted Air Quality Action Plan which sets out different measures which are proposed in order to improve air quality in the town. The estimated cost of implementing all of the measures has been used to calculate a per dwelling contribution figure of £5,218 per open market dwelling having 2 bedrooms or more. The occupiers of any dwellings on this site would be highly likely to pass through the areas of Cullompton where air quality is poor in order to access facilities such as the library, secondary school, leisure centre and shops. For this reason, the provision of the dwellings would worsen the existing air quality issues and should planning permission be granted, a financial contribution toward air quality improvements should be made in accordance with policies AL/CU/15 of the Allocations and Infrastructure Development Plan Document and the Air Quality and Development SPD.

Objection has also been received in relation to other perceived deficiencies in infrastructure in the village, such as the lack of a doctors surgery. Planning permission has now been

granted for the conversion of the former stable building at The Gables, Gables Road to relocate the village pharmacy, provide community facilities and to construct an extension to house a full doctors surgery.

7. Other matters

The application has been accompanied by an extended Phase 1 habitat survey. No badger setts were found on or immediately adjacent to the site. Three trees adjacent to the site were identified as having some roosting potential for bats but the site itself provides low quality foraging and commuting habitat. The hedgebanks and bramble dominated scrub on the site provide suitable breeding bird, dormouse and reptile habitat and the hedgebanks are proposed to be retained as part of the development. For the purposes of determining this application, no further survey works are required and the proposal will not cause demonstrable harm to protected species.

The Police Architectural Liaison Officer has raised concerns with the presence of footpaths adjacent to the site and the impact upon crime and disorder. At this stage, the application is in outline only and layout and design which would affect crime and disorder considerations are matters reserved for later determination.

SUMMARY

Although the application site is within the current settlement limit boundaries of the village of Willand and so is considered to be in a sustainable location, the site is allocated for employment development under policy WI1 of the Local Plan Part 3 (Development Management Policies). Policy DM21 of the same document sets out the circumstances and the evidence required in order for the development of employment land, or land allocated for employment, to be developed for non-employment purposes. In this instance, Officers have concerns that the information provided to date is not sufficient to demonstrate full compliance with policy DM21 but Officers are still waiting for independent information pertaining to the value of the land and the reasonableness of the prices being sought by the land owners for employment uses. Until such information is received, a conclusion on compliance with policy DM21 cannot be reached and an update on this matter will be provided to members before the Planning Committee meeting.

The applicant has argued that the Local Planning Authority cannot demonstrate that it has an adequate five year supply of housing land as required by the National Planning Policy Framework, however Officers believe that the applicants calculations of five year land supply use an out-of-date annual housing land supply figure and therefore the Council's assertion that it has 107% of the housing land required for the next 5 years is correct and there is no pressing need for the delivery of housing in the district to necessitate the setting aside of prevailing adopted policies.

To deliver 97 houses on the application site would be a significant increase in the size of the resident population of the village and would bring residential development onto an area of land which is, by the nature of the surrounding development and road network, best suited to employment development. For these reasons, the development of the site would not represent the high quality development required by policy DM2 of Local Plan Part 3 (Development Management Policies) as it would be out of context with the pattern of development in the village and would not be well integrated with surrounding buildings, streets and landscapes. Furthermore, such significant development in the village would not be a minor proposal in the context of policy COR17 of the Core Strategy (Local Plan Part 1). For these reasons, the development would fail to meet the sustainable development principles required to be met by the National Planning Policy Framework.

8.0 REASONS FOR REFUSAL

1. Policy COR17 of the Mid Devon Core Strategy (Local Plan Part 1) seeks to deliver minor development proposals in the recognised villages in the District, of which Willand is one. In the opinion of the Local Planning Authority the development of 97 dwellings in Willand would be a significant development in the context of policy COR17 and therefore be contrary to the objectives of the policy and the development focus set out in policy COR12 of the Mid Devon Core Strategy (Local Plan Part 1) which seeks to reduce housing rates in the rural areas.

2. In the opinion of the Local Planning Authority, the development of the site, sandwiched between two areas of employment development and physically divorced from the existing pattern of housing development in the village would not represent the high quality development required by policy DM2 of Local Plan Part 3 (Development Management Policies) and the National Planning Policy Framework as it would be out of context with the spatial pattern of development in the village and would not be well integrated with surrounding buildings, streets, landscapes and uses.

Contact for any more information	Miss Thea Billeter, Area Planning Officer 01884 234348
Background Papers	None
File Reference	14/01938/MOUT
Circulation of the Report	Cllrs Richard Chesterton Members of Planning Committee