

## PLANNING COMMITTEE AGENDA - 13th July 2022

### Applications of a non-delegated nature

| <u>Item No.</u> | Description  |
|-----------------|--|
| 01.             | <p>22/00675/MARM - Reserved matters in respect of (access, appearance, landscaping, layout, scale and drainage) for spine road connecting Phase 1 to Phase 2, following Outline approval 14/00881/MOUT at Land at NGR 298065 112985 (South of Blundells Road), West Manley Lane, Tiverton.</p> <p><b>RECOMMENDATION</b><br/>Approve Reserved Matters subject to conditions</p> |
| 02.             | <p>21/01420/FULL - Erection of an agricultural building, polytunnels and raised beds, septic tank and provision of new vehicular access at Land at NGR 289870 116865, Stoodleigh Cross, Stoodleigh.</p> <p><b>RECOMMENDATION</b><br/>Grant permission subject to conditions.</p>   |
| 03.             | <p>20/00273/MFUL - Erection of 9 dwellings, conversion of barns to 5 dwellings, with associated works including access improvements and landscaping (Revised Scheme) at Halberton Court Farm, High Street, Halberton.</p> <p><b>RECOMMENDATION</b><br/>Grant permission subject to conditions and the signing of a S106 agreement to secure.</p>                               |

Application No. 22/00675/MARM

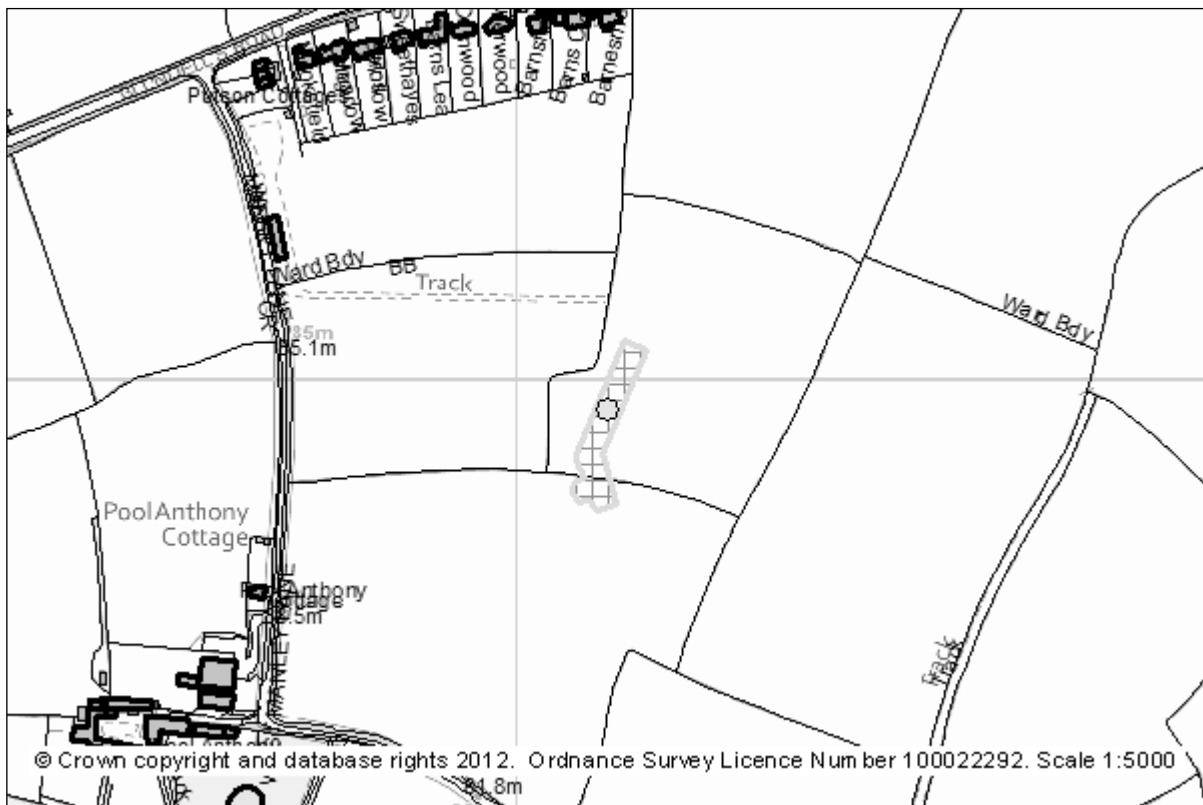
Grid Ref: 298120 : 113015

Applicant: Crompton, Redrow Homes Ltd

Location: Land at NGR 298065 112985 (South of Blundells Road)  
West Manley Lane  
Tiverton  
Devon

Proposal: Reserved matters in respect of (access, appearance, landscaping, layout, scale and drainage) for spine road connecting Phase 1 to Phase 2, following Outline approval 14/00881/MOUT

Date Valid: 26th April 2022



**APPLICATION NO: 22/00675/MARM**

**Site Visit: Yes**

**Date of Site Visit: 8<sup>th</sup> July 2022**

## **RECOMMENDATION**

Grant permission subject to conditions

## **PROPOSED DEVELOPMENT**

This is a Reserved Matters application for the next phase of the construction of the spine road, south of Blundell's Road that was granted planning consent under Application 21/00374/MARM.

The area associated with this application forms part of the Tiverton Eastern Urban Extension (EUE) which is allocated for mixed use development in the Adopted Mid Devon Local Plan 2013-2033. It has previously been the subject of an outline planning application (Application No. 14/00881/MOUT) for the construction of a mixed-use development including 700 dwellings, 22,000msq of B1/B8 employment land, a care home, primary school and neighbourhood centre with associated access and egress onto Blundell's Road.

This infrastructure Reserved Matters application will facilitate access to the construction and welfare compounds, contractor car park and material store for the residential development south of Blundell's Road, approved through Application 21/00454/MARM. The location of these facilities have been approved through discharging Condition 14 of Application 14/00881/MOUT. It will also extend the spine road to connect with the existing and approved new highway network and provide an extension to the arterial route serving future phases of residential development within the outline application 14/00881/MOUT.

At present the application site consists of a rectilinear stretch of land, which crosses two fields separated by an existing hedgerow.

This application in respect of access, appearance, landscaping, layout, scale and drainage will also provide the principle means of access for future phases of residential development to the east.

Surface water drainage is to be managed by means of a sustainable urban drainage system (SUDs); additional detail to be provided later in this report.

In accordance with the requirements of the Environmental Impact Assessment Regulations 2017 (as amended), the area of land associated with this application was the subject of an Environmental Statement (ES) at outline application stage (14/00881/MOUT). Mitigation and enhancement measures are set out within Section 6.8 of the ES. An Ecological Impact Assessment, dated June 2022, has been submitted in support of this application, and confirms mitigation demonstrating compliance to the ES.

## **APPLICANT'S SUPPORTING INFORMATION**

Completed application form  
Covering letter  
Drainage Statement (Dec 2021)

Ecological Impact Assessment (April 2022)  
Statement of Community Involvement  
Waste Audit Statement  
Wildlife Trigger Table (May 2017)  
General Arrangement Plan (R402/81, Dec 2021)  
Swept Path Analysis (R402/82, Dec 2021)  
Longitudinal Sections (R402/83, Dec 2021)  
Adoptable Construction Details (R402/84, Dec 2021)  
Adoptable Drainage Details (R402/85, Dec 2021)  
Cross Sections (R402/86, Dec 2021)  
Section 38 Plan (R402/87, Dec 2021)  
Surface Water Outfall Routes (R402/88, Dec 2021)  
Site Location Plan (R402/89, April 2022)

## **RELEVANT PLANNING HISTORY**

22/00675/MARM - PCO Reserved matters in respect of (access, appearance, landscaping, layout, scale and drainage) for spine road connecting Phase 1 to Phase 2, following Outline approval 14/00881/MOUT

13/00056/SCR - CLOSED date 1st March 2013 Request for scoping opinion in respect of a mixed use development (Eastern Urban Extension - Area 3)

14/00881/MOUT - PERCON date 12th June 2017 Outline for a mixed use development comprising up to 700 dwellings, 22,000 square metres of B1/B8 employment land, care home, primary school and neighbourhood centre with associated access including a left in left out junction on the westbound A361 and access and egress onto Blundell's Road. Non Material Amendment 20/00804/NMA - Granted 4/11/2020. Non Material Amendment - 20/01787/NMA - GRANTED 13/11/2020

21/00374/MARM - PERCON date 30th June 2021 Reserved Matters in respect of (appearance, landscaping, layout and scale) for infrastructure associated with initial phases of development, following Outline approval 14/00881/MOUT

21/00454/MARM - PERCON date 7th February 2022 Reserved Matters (appearance, landscaping, layout and scale) for 164 dwellings with the provision of public open space, vehicular and pedestrian access, landscaping, drainage and related infrastructure and engineering works following Outline approval 14/00881/MOUT

21/00765/PE - CLOSED date 27th July 2021 Regulation 5 of the Electronic Communications Code (Conditions and Restrictions) (Amendment) Regulations 2017 - Installation of 6 x 9m wooden poles (7.2m above ground) (Reference: WTC929WW)

## **OTHER HISTORY**

19/01757/PREAPP - CLO date 31st August 2021  
PROTECT: Proposed residential development at Phase 1 (following Outline approval 14/00881/MOUT)

19/01775/PREAPP - CLO date 22nd October 2019  
Proposed residential development - Duplicate 19/01757/PREAPP

## **INFORMATIVES**

Adopted Tiverton Eastern Urban Extension Masterplan Supplementary Planning Document (2018)  
Tiverton Eastern Urban Extension Design Guide (2016)

## **DEVELOPMENT PLAN POLICIES**

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

S1 Sustainable Development Priorities  
S3 Meeting Housing Needs  
S4 Ensuring Housing Delivery  
S5 Public Open Space  
S8 Infrastructure  
S9 Environment  
S10 Tiverton

TIV1 Eastern Urban Extension  
TIV2 Eastern Urban Extension Transport Provision  
TIV3 Eastern Urban Extension Environmental Protection and Green Infrastructure  
TIV4 Eastern Urban Extension Community Facilities  
TIV5 Eastern Urban Extension Phasing

DM1 High Quality Design  
DM2 Renewable and Low Carbon Energy  
DM3 Transport and Air Quality  
DM4 Pollution  
DM5 Parking  
DM23 Community Facilities  
DM25 Development Affecting Heritage Assets  
DM26 Green Infrastructure in Major Development

## **CONSULTATIONS**

### **Historic Environment Team: 29 April 2022**

Given the scale of the proposed works the Historic Environment Team has no comments to make on this reserved matters application.

### **Devon & Cornwall Police: 9 May 2022**

The Police have no comments from a designing out crime perspective at this time and unless the local authority has any specific concern in relation to crime and disorder will have no future comment to make.

### **Highway Authority: 11 May 2022**

The details submitted under planning application number 22/00675/MFUL have been assessed in conjunction with Devon County Councils Highway Design Guidance.

The proposed highway design and layout, as submitted is acceptable to Devon County Council.

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

The Head of planning, transportation and environment, on behalf of Devon County Council, as Local Highway Authority, has no objection to the proposed development.

**RSPB: 16 May 2022**

The RSPB note the recommendations in the Ecological Impact Assessment, part 6 Enhancements. We would like to draw your attention to British Standard 'BS42021:20221 Integral Nest Boxes Selection and Installation for New Developments' which was published at the end of March and is designed to create a relatively simple pathway for Planners, Ecologists and the Construction Industry to achieve 'Best Practice'.

We fully support its recommendation that an average of one integral bird box should be installed per residential unit, boxes designed for swifts will be used by most if not all bird species that nest in the cavities found in older buildings and mature trees and advise their use in all but exceptional circumstances.

**Lead Local Flood Authority:  
22 June 2022**

Our objection is withdrawn and we have no in-principle objections to the above planning application at this stage.

Following my previous consultation response (FRM/MD/00675/2022; dated 12th May 2022), the applicant has submitted additional information in relation to the surface water drainage aspects of the above planning application, for which I am grateful.

The applicant has confirmed that the roads will not drain into filter drains nor swales. The road will drain via gullies into pipework which will flow into the detention basins downstream. The filter drain/swale downstream of the basins cannot be considered as two separate features.

**12 May 2022**

At this stage, we object to the above planning application because the applicant has not submitted sufficient information in order to demonstrate that all aspects of the surface water drainage management plan have been considered. In order to overcome our objection, the applicant will be required to submit some additional information, as outlined below.

The applicant has proposed to drain surface water from the road into gullies and then into filter drains. The filter drains will then discharge into a swale/s which will convey flows into the existing detention basins. The applicant must depict the filter drains and swales on a plan. These features should show the connection into the existing detention basin/s.

The applicant must also confirm whether any required surface water pipework already exists.

Maintenance schedules should be submitted for the proposed surface water drainage system. The applicant has noted that a management company will be responsible for maintaining some of the proposed surface water features. The applicant should confirm whether these features will be maintained by an existing management company serving the site.

The impermeable areas within the MicroDrainage model outputs have reduced. However, the proposed discharge rate has increased. The applicant must clarify the model outputs.

**Public Health: 23 May 2022**

We have considered the application for reserved matters approval and there are no elements on which environmental health need to comment.

## REPRESENTATIONS

The application has been advertised by means of site notice, and neighbour notification letters, in addition to an advertisement in the local newspaper.

1 letter of objection has been received at the time of writing. The main points including:

1. Safety associated with the failure to provide segregated cycle lanes along both sides of the spur road; cycle lanes that separate cyclists from motor vehicles and pedestrians.
2. Lack of compliance to the Adopted Tiverton EUE Masterplan due to the failure to provide segregated cycle lanes along both sides of the spur road (See 3.3 Guiding principles & 4.3 Movement).
3. Failure to provide off-street parking immediately adjacent to the spur road. This will lead to road congestion at school drop off / pick up in addition to making cyclists more vulnerable.
4. Lack of compliance to the Adopted Tiverton EUE Masterplan and to advice from the Design Review Panel relating to the failure to provide off-street parking on the spur road.

## MATERIAL CONSIDERATIONS AND OBSERVATIONS

The main issues in the determination of this application are:

1. **Policy background and principle of development**
2. **Transport Infrastructure: strategic delivery in a timely manner**
3. **Safe and Accessible Places**
4. **Design and layout**
5. **Drainage and flood risk**
6. **Air quality**
7. **Ecology, Landscape and Visual Impact**
8. **Planning balance**

### 1.0 Policy background and principle of development

- 1.1 The high level policy considerations relevant to this application site were considered at outline application stage for the construction of a mixed-use development including 700 dwellings, 22,000msq of B1/B8 employment land, a care home, primary school and neighbourhood centre with associated access and egress onto Blundell's Road (Application No. 14/00881/MOUT). The Officer's Report for the 2014 application provides detailed consideration. An application for the first phase of the spine road, south of Blundell's Road (Application 21/00374/MARM), and the first phase of residential units (Application 21/00454/MARM), both associated with the outline application, have been approved. This Reserved Matters application seeks planning permission for infrastructure associated with the phased delivery of development related to application 14/00881/MOUT.
- 1.2 The Adopted Mid Devon Local Plan 2013-2033 sets out the sustainable strategy for growth across the District, to achieve positive social, environmental and economic objectives. Policy S2 of the Adopted Mid Devon Local Plan 2013-2033 focuses development in and around the main settlements of Tiverton, Cullompton and Crediton. Policy S10 seeks to maintain Tiverton as the largest urban area.
- 1.3 Policy S1 seeks sustainable communities in which people want to live and work, providing

access to public transport and reducing the need to travel by car. Whilst Policies S5 and S8 seek to ensure that development is served by necessary infrastructure in a predictable, timely and effective fashion. Developers will be expected to contribute to, or bear the full costs of, new or improved infrastructure and facilities where it is appropriate for them to do so.

- 1.4 Policies TIV1 –TIV5 set out the criteria for the delivery of the Tiverton EUE. Policy TIV1 considers the overall allocation while policies TIV2 to TIV5 set out specific requirements in respect of transport (Policy TIV2), environmental protection and green infrastructure (Policy TIV3), community facilities (Policy TIV4) and phasing (Policy TIV5).
- 1.5 The Adopted Mid Devon Local Plan 2013-2033 sets out a number of sustainable development principles through policies DM1 high quality design; DM2 renewable and low carbon energy; DM3 transport and air quality; DM4 pollution and DM26 the inclusion of green infrastructure in major development. Each of these policies are relevant in the determination of this planning application.
- 1.6 Following the allocation of the site under the former adopted Allocations and Infrastructure Development Plan Document, the Tiverton Eastern Urban Extension (EUE) Masterplan was adopted as a Supplementary Planning Document in 2014 and again in 2018 with revisions. It is a material consideration in the determination of this application.
- 1.7 The Adopted Tiverton EUE Masterplan SPD sets a strategic vision for the allocation and aims to guide development to achieve a high quality, distinctive and well integrated place. It sets out the infrastructure to be accommodated on the site, to provide consistency of approach in relation to phasing of delivery and design. It is supported by the Tiverton EUE Design Guide (June 2016).
- 1.8 This application site forms part of the larger Tiverton EUE meaning the principle of development on the site has been established. This application must therefore be assessed against the detailed policies in the Adopted Mid Devon Local Plan 2013-2033 and the principles set out in the Adopted Tiverton EUE Masterplan SPD and Design Guide. This application should not be considered in isolation to the development of the wider Tiverton EUE.

## **2.0 Transport Infrastructure: strategic delivery in a timely manner.**

- 2.1 The NPPF (para 102) states that transport issues should be considered from the earliest stages so that potential impacts on transport networks can be addressed. Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe (NPPF, para 109).
- 2.2 Policy S8 Infrastructure of the Adopted Mid Devon Local Plan 2013-2033 seeks to ensure new development is served by necessary infrastructure in a predictable, timely and effective fashion.
- 2.3 Policy TIV2 of the Adopted Mid Devon Local Plan 2013-2033 allocates the urban extension subject to the provision of transport infrastructure to ensure appropriate accessibility. Such measures are reflected in the Adopted Tiverton EUE Masterplan SPD with a view to delivering infrastructure strategically. Policy TIV5 of the Adopted Mid Devon Local Plan 2013-2033 requires infrastructure to come forward in step to minimise the impact of development on surrounding areas.



- 2.4 This Reserved Matters application has not been considered in isolation to the wider strategic delivery of the EUE or the existing highway network. The former outline application (14/00881/MOUT) established the capacity of the highway network at outline planning application stage. The principles required by Policy TIV2 were established at that stage and again at application 21/00374/MARM for the spine road, south of Blundell's Road. This application to extend the spine road will not only connect with the existing and approved new highway network, provide an extension to the arterial route serving future phases of residential development to the east and west, but will also remove potential areas of conflict between construction traffic and new occupiers by facilitating access to the construction and welfare compounds as application 21/00454/MARM is constructed and occupied. In so doing, this application complies with the principles of the Adopted Tiverton EUE Masterplan SPD seeking to ensure that infrastructure and phases of development are co-ordinated. It establishes the principle of a network of streets south of Blundell's Road, linking to the existing public highway as required through Policies TIV2 and DM1.
- 2.5 Your Officers consider that this strategic infrastructure will be delivered in a timely manner, will ease the impact of construction on future occupiers, will ensure that future phases of development will be served by the necessary infrastructure in a predictable, timely and effective fashion and will be coordinated to improve accessibility without an unacceptable impact on the existing highway network. The proposed development is considered to comply with policies S8, TIV2 and TIV5 of the Adopted Mid Devon Local Plan 2013-2033 and with the requirements of the Adopted Tiverton EUE Masterplan SPD and Tiverton EUE Design Guide ensuring an integrated and comprehensive approach to the delivery of development.

### **3.0 Safe and accessible places**

- 3.1 The NPPF (para 102) requires opportunities for walking, cycling and public transport use to be identified at the outset. Policies S8, TIV1 and DM1 of the Adopted Mid Devon Local Plan require development to make provision for sustainable modes of transport, accessible to the whole community. The road proposed through this application will be 6.5 metres wide and will be able to satisfactorily accommodate public transport. Footway provision will be on both sides of the highway with provision for cycle's on-street. The detailed design of this road will align, in every respect, with the approved spine road, application 21/00374/MARM.
- 3.2 A representation has been received relating to the failure to provide segregated cycle lanes along both sides of the proposed road. As confirmed, the detailed design of this road will align with the approved spine road, application 21/00374/MARM. This application is simply for an extension to that spine road; to include the vehicular highway, footpath (x2) and immediate verge side. It does not include the boulevard setting or area of public open space as did application 21/00374/MARM. These areas will be considered within the next phase of residential development. In respect of this application, it would not be appropriate to make provision that is not continuous with the approved application. A representation has also been received regarding the failure to provide off-street parking, or, perhaps a failure to control on-street parking particularly in the proximity of the proposed school. As confirmed, this application is simply to provide an extension to the public highway. Policy compliant parking provision is addressed at the point of need arising; in this instance when the residential application adjoining this application is received. This application does not generate a need for parking provision. Officers have and will continue to ensure direct and attractive alternatives to the car are provided throughout the phased delivery of the EUE. The proposed primary school is to serve the needs arising from the new community. Arrival

of school children by car, if planned correctly, should be limited. Should parking however be required, provision for drop-off / pick up will be made available at the school, within the neighbourhood centre and at the proposed community centre. It is not for planning applications to implement parking restrictions.

- 3.3 Your Officers advise that this application, as required by the NPPF, has fully considered walking, cycling and public transport provision. Segregated pedestrian and cycle routes have been given specific consideration, particularly when viewed in the context of the wider EUE development and the approved east / west green corridors. A highway that aligns, in every respect to the approved spine road, ensures for safe and accessible places with alternatives to the private car. In this respect, the proposal complies with Policies S8, TIV2 and DM1 of the Adopted Mid Devon local Plan 2013-2033, the Adopted Tiverton EUE Masterplan SPD and Tiverton EUE Design Guide.

#### **4.0 Design and Layout**

- 4.1 The NPPF (para 124) states that the creation of high quality places is fundamental to the achievement of the planning process. Good design and planning should ensure that developments function well and add to the overall quality of the area, seeking to establish a strong sense of place.
- 4.2 Policy S9 of the Adopted Mid Devon Local Plan 2013-2033 seeks high quality design that reinforces the character and distinctiveness of the built environment. Policy DM1 requires the design of new development to be of high quality, based upon and demonstrating a clear understanding of the characteristics of the site, its wider context and making efficient and effective use of the site. It should make a positive contribution to the character of the area.
- 4.3 The Adopted Tiverton EUE Masterplan SPD sets out a number of guiding principles that are relevant to this application including those relating to character, place making and movement. A guiding principle to the Adopted Masterplan SPD is the establishment of a garden neighbourhood with landscape integrated into the phases of development. The landscape setting for this part of the spine road will be considered within the next phase of housing development. This allows the detailed landscape design to be fully integrated within the proposed housing layout; making provision for attractive, legible and safe streets. The guiding principle for a green boulevard that functions as a key landscape feature remains embedded within the phased delivery of the Tiverton EUE. Relevant to this is the establishment of a clear and legible hierarchy of streets that respond to different travel and movement needs. This application will deliver the next phase in the delivery of an integrated highway network.
- 4.4 The Adopted Tiverton EUE Masterplan SPD offers an alignment for the spine road south of Blundell's Road; allowing for a network of inter-connected residential streets to form a finer grain for the residential community. The route of the spine road identified through this application does not entirely align with the Adopted Tiverton EUE Masterplan SPD; although broadly on the same alignment. Needless to say, the Adopted Tiverton EUE Masterplan SPD acknowledges that it has been designed to be 'inherently flexible' (para 5, Chapter 1.2) allowing it to adapt to changing circumstances and proposals.
- 4.5 Your Officers advise that the road proposed through this application is designed and will establish, in the context of the wider EUE, a hierarchy of streets that will ensure the EUE functions well. The detailed landscape design and setting of the road will form part of the next residential phase of development; reinforcing the character and wider context of the

EUE. This application is designed such that it will integrate into approved and later phases of development. For this reason, Officers consider that the proposal complies with Policies S9 and DM1 of the Adopted Mid Devon Local Plan 2013-2033 and with the Adopted Tiverton EUE Masterplan SPD and Tiverton EUE Design Guide.

#### **4.0 Drainage and flood risk**

- 5.1 The NPPF requires the planning system (para 148) to take into account the long term implications for flood risk and provide appropriate mitigation measures, without the risk of flooding being increased elsewhere (para 163). Where appropriate, applications should be supported by a site-specific flood-risk assessment. Major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate. The systems used should take account of advice from the Lead Flood Authority, have appropriate proposed minimum operational standards, have maintenance arrangements in place to ensure an acceptable standard of operation for the lifetime of the development; and where possible, provide multifunctional benefits.
- 5.2 Policy S9 the Adopted Mid Devon Local Plan 2013-2033 seeks mitigation measures to ensure development does not increase the risk of flooding elsewhere and for a sustainable urban drainage system including provision for future maintenance. The Environmental Statement, submitted at outline application stage (14/00881/MOUT) assessed the likely significant effects of flooding for the outline application area and identified mitigation measures. A surface water drainage plan has been submitted in support of this application indicating that peak discharge rates from the development for the 1 in 1 year, 1 in 30 year and 1 in 100 year rainfall event, including a 20% and 40% allowance for climate change, are less than allowable discharge rates.
- 5.3 Policy DM1 of the Adopted Mid Devon Local Plan 2013-2033 requires appropriate drainage including sustainable drainage systems and arrangements for future maintenance. Policy DM26 of the same plan requires major development proposals to incorporate flood and water resource management as reflected in the Adopted Tiverton EUE Masterplan SPD, Guiding Principle G(5).
- 5.4 A Flood Risk Assessment has been submitted as part of the outline application (14/00881/MOUT). It established a drainage strategy, including a sustainable urban drainage system across the outline application area which is reflected in this Reserved Matters application. A Drainage Statement has been submitted in support of this application, following detailed design of this proposed extension to the spine road. It outlines measures to reduce the risk of onsite and downstream flooding and safeguards for the quality of water discharged into the Tidcombe Fen SSSI. Drawing No.R402/81 (Appendix 2, Drainage Statement) confirms the proposed surface water drainage system for this application area with Drawing No. R402/88 (Appendix 2, Drainage Statement) confirming the arrangements between this application site area and the detention basins approved through application 18/00978/MFULL. Needless to say, it is recognised that elements of the drainage detailed in the Drainage Statement submitted to support this application, form part of the permanent drainage solutions to be delivered at later stages of the phased delivery of approved application 14/00881/MOUT. A condition is therefore proposed providing a temporary drainage solution (to convey flows from the southern end of the spine road) until such time that the permanent drainage solution approved under application 14/00881/MOUT is available for use. This is to the satisfaction of the Lead Local Flood Authority.

- 5.5 It is for these reasons that your Officers consider that the proposal complies with Policies S9 and DM1 of the Adopted Mid Devon Local Plan 2013-2033 and to the Adopted Tiverton EUE Masterplan SPD.

## **5.0 Air quality**

- 6.1 The NPPF states that planning decisions should seek to limit or meet national objectives for reducing pollutants. Opportunities to improve air quality or mitigate impacts should be identified, including travel management and green infrastructure provision and enhancement.
- 6.2 Policy DM3 of the Adopted Mid Devon Local Plan 2013 – 2033 requires development proposals that would give rise to significant levels of vehicular movement to be accompanied by an integrated Transport Assessment, Travel Plan, Traffic Pollution Assessment and Low Emission Assessment, including mitigation measures to reduce negative impacts on local air quality. Environmental Health Officers are content that measures to be implemented through the Construction Management Plan will satisfactorily address air quality issues arising both from the construction of this proposed road and from the movement of construction traffic. Similarly, DCC Highway Authority have not raised any concerns.
- 6.3 Subject to securing mitigation measures required by condition at outline application stage, your Officers advise that the proposal complies with policies S8, TIV2 and DM3 of the Adopted Mid Devon Local Plan 2013/2033.

## **7.0 Ecology, Landscape and Visual Impact**

- 7.1 The NPPF (Para 170) requires planning proposals to take steps to enhance biodiversity. Policy TIV3 requires measures to protect and enhance trees, hedgerows and other environmental features which contribute to character, biodiversity and wildlife networks within the site.
- 7.2 This application is supported by an Ecological Impact Assessment. It confirms the relatively low ecological value of the site based on the scale of the development. However, this application forms a small part of a larger strategic allocation and the cumulative impact that this proposal contributes cannot be dismissed. On this basis, the Ecological Impact Assessment confirms compliance to the Environmental Statement, submitted at outline application stage. Whilst this application proposes the removal of 20m of hedgerow it will require formal endorsement from Natural England by means of a licence. The removal of the hedgerow will be undertaken in a phased approach, minimising the impact on ecology. The Ecological Impact Assessment also confirms the presence of an ecologist whilst these works are being undertaken (para 2, Chapter 5.3).
- 7.3 The Environmental Statement submitted at outline application stage provided a landscape and visual assessment of the proposed development. This application for road infrastructure, designated within the outline application, whilst not specifying landscape and visual mitigation, is not considered out-of-keeping with the ambitions for the Tiverton EUE. The proposal is considered acceptable for reasons of ecology, landscape and visual impact.
- 7.4 A comment received from the Royal Society for the Protection of Birds has drawn attention to the recent British Standard relating to Integral Nest Boxes Selection and Installation for New Developments. Whilst this application is for the construction of road infrastructure with

mitigation in the form of nest boxes being provided through application 21/00454/MARM the British Standard is noted.

- 7.5 For the reasons outlined above, your officers consider the proposal complies with policies TIV3 of the Adopted Mid Devon Local Plan 2013 – 2033.

## **8.0 Planning Balance**

This application seeks planning approval for the layout, scale, landscaping and appearance of the next phase in the construction of the spine road, south of Blundell's Road. It will adjoin the southern boundary of approved highway, application 21/00374/MARM. In the shorter term, it will provide access to the construction and welfare compounds serving the construction of the residential units of approved application 21/00454/MARM. In so doing, it will remove potential areas of conflict between construction traffic and occupied units of application 21/00454/MARM whilst allowing the applicant to use the same compound for both residential Phase 1 (Application 21/00454/MARM) and future residential Phase 2. This will minimise the impact of mobilising residential Phase 2 on both new and existing residents.

This application makes provision for a 6.5m wide carriageway with 2x2m footways either side of the road. Cycles would be on street. The detailed design of this proposed highway will align, in every respect, with the approved spine road, application 21/00374/MARM providing a clear and legible hierarchy of streets to respond to different travel and movement needs. In the longer term, it will function as part of the arterial route serving future phases of residential development within the outline application 14/00881/MOUT.

For these reasons, your officers consider the proposal complies with the NPPF, Policies S8, S9, TIV2, TIV3, TIV5, DM1 and DM3 of the Adopted Mid Devon Local Plan 2013-2033 and the requirements of the Adopted Tiverton EUE Masterplan SPD and Tiverton EUE Design Guide ensuring an integrated and comprehensive approach to the delivery of development.

## **CONDITIONS**

1. The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice.
2. The proposed estate road, cycleways, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, road maintenance/vehicle overhang margins, embankments, visibility splays, accesses, 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.
3. No development shall take place on the site except in accordance with the details set out within the submitted Ecological Impact Assessment (June 2022) and the Spine Road Extension Proposed Drainage Statement. The recommendations in the Ecological Impact Assessment (June 2022) and the Spine Road Extension Proposed Drainage Statement shall be adhered to throughout the construction period and the development shall be operated thereafter only in accordance with the management provisions set out within them.

4. All hedgerow removal shall be undertaken under the supervision of a suitably qualified ecologist acting in accordance with Natural England licence requirements.
5. Prior to the commencement of development, detailed drawings for a temporary drainage solution used to convey flows from the southern end of the spine road, hereby permitted, to the approved drainage within Application 21/00454/MARM shall be submitted by the applicant and approved in writing by the Local Planning Authority.

The temporary drainage shall be retained and maintained for its purpose until such time that the permanent drainage solution to be delivered in association with a phased delivery of development under approved outline application 14/00881/MOUT is construction and available for use.

### **REASONS FOR CONDITIONS**

1. To ensure the timely delivery of an early phase of development in the complex delivery of the Tiverton EUE.
2. To ensure that adequate information is available for the proper consideration of the detailed proposal and in accordance with Policies S8 and TIV2 of the Adopted Mid Devon Local Plan 2013 – 2033.
3. For the avoidance of doubt and in the interest of proper planning.
4. To ensure wildlife is protected.
5. To provide certainty in the interests of flood management and proper planning.

### **INFORMATIVES**

The applicant's attention is drawn to Condition 3 (Application 18/00978/MFUL, The Construction of Two Linked Detention Basins West of West Manley Lane) requiring a programme of ground water monitoring to be submitted. This is raised as an informative as the Sustainable Urban Drainage system proposed through this application is drained to the detention basins within application 18/00978/MFUL.

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

This application seeks planning approval for the layout, scale, landscaping and appearance of the next phase in the construction of the spine road, south of Blundell's Road. It will adjoin the southern boundary of approved highway, application 21/00374/MARM. In the shorter term, it will provide access to the construction and welfare compounds serving the construction of the residential units of approved application 21/00454/MARM. In so doing, it will remove potential areas of conflict between construction traffic and occupied units of application 21/00454/MARM whilst allowing the applicant to use the same compound for both residential Phase 1 (Application 21/00454/MARM) and future residential Phase 2. This will minimise the impact of mobilising residential Phase 2 on both new and existing residents.

This application makes provision for a 6.5m wide carriageway with 2x2m footways either side of the road. Cycles would be on street. The detailed design of this proposed highway will align, in every respect, with the approved spine road, application 21/00374/MARM providing a clear and legible hierarchy of streets to respond to different travel and movement needs. For these reasons, your officers consider the proposal complies with the NPPF, Policies S8, S9, TIV2, TIV3, TIV5, DM1 and DM3 of the Adopted Mid Devon Local Plan 2013-2033 and the requirements of the Adopted Tiverton EUE Masterplan SPD and Tiverton EUE Design Guide ensuring an integrated and comprehensive approach to the delivery of development.

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

Application No. 21/01420/FULL

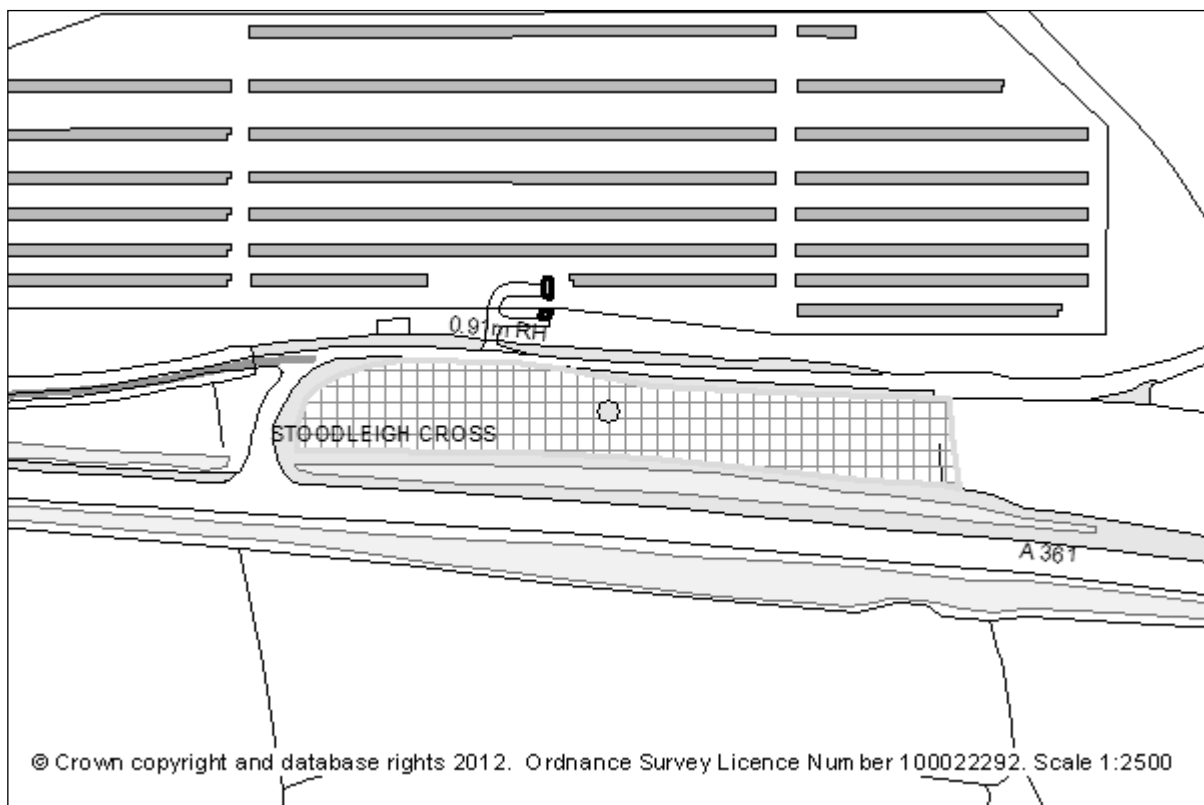
Grid Ref: 289870 : 116865

Applicant: Mr C Kefford

Location: Land at NGR 289870 116865  
Stodleigh Cross  
Stodleigh  
Devon

Proposal: Erection of an agricultural building, polytunnels and raised beds, septic tank and provision of new vehicular access

Date Valid: 11th October 2021





## **APPLICATION NO: 21/01420/FULL**

### **MEMBER CALL-IN**

Called in by Cllr Andrew Moore, in order to consider the potential impact of the proposed development on the character and amenities of the area.

### **RECOMMENDATION**

Grant permission subject to conditions

### **PROPOSED DEVELOPMENT**

Erection of an agricultural building, polytunnels and raised beds, septic tank and provision of new vehicular access.

The applicant seeks planning permission for the erection of a range of agricultural buildings in relation to the proposed development of an agricultural smallholding on the site. The proposal comprises the provision of an agricultural building with space inside for storage, washing and boxing, as well as a WC, two polytunnels, a small tool shed, chicken coop with run, goat shed with run, heated greenhouse and raised beds. The proposal also includes the provision of a septic tank to service the toilet facilities and creation of a new central access with hard surfaced parking and service area.

The site comprises a long field of approximately 1.5 acres (0.6 hectares), at Stoodleigh Cross. It is sited between the A361 and a classified 'C' road, which provides access from the A361 towards the village of Stoodleigh, which is a little over 2km to the north east. Blatchworthy Solar Farm, a 1.5MW solar farm, covering an area of just over 5hectares is located on the field immediately to the north, on the opposite side of the public highway. The site is bounded by native species hedgerow to the south, east and west boundaries, and a bank to the north.

Some unauthorised development has taken place on site, with an unauthorised access made to the western end of the field, associated compacted stone surface, the erection of associated fencing and gates, and the provision of storage containers, which are currently being used for the storage of materials to be used in relation to the proposed development. This application does not seek to retain those unauthorised works. Furthermore, during the course of the application, the scheme has been amended to omit a proposed mobile home and kennels building, and reduce the size of the proposed storage building.

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

Application form, site location plan, block plan, proposed floor plans and elevational drawings, planning statement, wildlife trigger list, preliminary ecological appraisal, soakaway report, foul drainage assessment form

### **RELEVANT PLANNING HISTORY**

No relevant history

## **DEVELOPMENT PLAN POLICIES**

Mid Devon Local Plan 2013-2033

Policy S1 - Sustainable development priorities

Policy S9 - Environment

Policy S14 - Countryside

Policy DM1 - High quality design

Policy DM3 - Transport and air quality

Policy DM20 - Agricultural development

National Planning Policy Framework

## **CONSULTATIONS**

### STOODLEIGH PARISH COUNCIL - 01/11/21

Stoodleigh Parish Council strongly opposes this application. We consider it to be undesirable and unjustified development in open countryside. We consider the site wholly unsuitable for the intended operation with no mains water, electricity or drainage. The applicant has not provided any information to support the viability of the proposed business operation. We believe that the Application is misleading in stating that the boundary fence will use "existing fencing in the form of fencing 2 metres high clad in 22m treated wood with 4 inch posts". This is only existing fencing as such, as we understand as the result of fencing carried out earlier this year when a new entrance to the site was formed when development was carried out. The proposed two metre high fence will be totally out of character with the surrounding countryside. We believe that if this application is approved it will set a precedent leading to sporadic development in open countryside and we urge you to refuse it.

29.03.2022

Stoodleigh Parish Council unanimously object to the revised plans. The apparent removal of the breeding kennels from the amended application has failed to alter the council's opinion that the site is a detriment to the countryside at present, with the accumulation of waste material and other equipment. The surrounding roadside hedge has been removed in places to provide vehicular access and replaced with high wooden fencing. Work has commenced without approval.

The points raised in our first objection still stand.

25.05.2022

At the meeting of Stoodleigh Parish Council 23rd May, it was resolved that, the Local Planning Authority be advised that the latest objection is based on the following grounds:  
the revised plans show that the proposed agricultural building is to contain a WC, but there is no information about arrangements for foul drainage as the septic tank is now omitted from the latest plan; the revised plans refer to vegetable washing in the agricultural building but again no arrangements for drainage; an unauthorised access and road has been constructed at the western edge of the field, along with the positing of various units nearest the A361 junction but no

information is given about returning this area to its original field use, reinstatement of the bulldozed bank and removal of unauthorised fencing and units; the revised plans propose a new access halfway along the field; this should involve reinstatement of the hedgebank for the two entrances which are no longer required.

#### HIGHWAY AUTHORITY - 25/10/21

The site is accessed off a C County Route which is restricted to 60 MPH

The number of personal injury collisions which have been reported to the police in this area between 01/01/2016 and 31/12/2020 is none.

This proposal will create more trips through this access and the applicant will need to show this access has safe visibility splays, therefore a drawing will be required to show the visibility splays from this access.

I cannot put forward recommendation until the above information has been provided

#### 28/04/22

The Applicant has submitted Drawing number 964-02C which is acceptable. Therefore the County Highway Authority has no objections.

Recommendation:

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

#### PUBLIC HEALTH

Contaminated Land: No concerns. (29.10.21).

Air Quality: No concerns. (29.10.21).

Environmental Permitting: Not applicable. (29.10.21).

Drainage: The applicant proposes a septic tank system discharging to a soakaway on their own land. However the permeability test concludes that the deeper sub-soils are practically impermeable. The writer recommends that a shallow 'herring bone' system may work but appears to be doubtful. The location and size of the herringbone system is not indicated on the plan. The land is intended to be used for a range of uses such as chickens, goats, veg and dog breeding. All the buildings and facilities for this will require water to be used and managed, as well as the temporary dwelling. There is no design and access statement on the planning portal and we would require further information about how cleaned foul water, kennels washings (also regarded as

contaminated water) and other surface water is going to be dealt with without causing flooding either on or off site. (29.10.21).

Noise & other nuisances: No concerns anticipated. (29.10.21).

Housing Standards: No comments. (12.10.21).

Licensing: They must contact licensing to obtain a licence for breeding on a commercial basis.

The siting of a mobile home may require a licence, please contact the licensing dept.

01884 255 255 or [licensing@middevon.gov.uk](mailto:licensing@middevon.gov.uk). (11.10.21).

Food Hygiene: Not applicable. (11.10.21).

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

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

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

IF MAINS WATER IS TO BE USED, WOULD HAVE NO COMMENT. (11.10.21).

Health and Safety: No comment. (11.10.21).

## **REPRESENTATIONS**

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

Over the course of the application, letters of objection have been received from 27 contributors. The main points raised in objection are as follows:

Works have already taken place on the land without planning permission.

A new access has been provided without planning permission, which has resulted in a section of hedgerow being removed, leading to water flooding the road.

The access should be closed and hedge reinstated.

The additional traffic associated with the smallholding and proposed kennels will lead to increased risk of an accident occurring on the highway and will also lead to increased mud on the road.

The proposed fence to the length of the site will not be in keeping with the surrounding countryside.

There are a number of inaccuracies in the application form.

The proposed kennels are not fit for purposes, being too small.

No details have been provided as to how trade effluent from the proposed kennels will be disposed of.

Dog kennels are very noisy. The proposed use would be heard across the valley, disturbing amenity.

No justification has been provided for the provision of a mobile home, in line with Local Plan policy DM8.

The proposal will set a precedent for further development.

There is no mains water or electricity on the site.

The soil on site is dense red clay, which would be unsuitable for a soakaway to serve the septic tank.

The number and size of buildings proposed are disproportionate to the proposed use and would have an adverse impact on local character.

The proposal would adversely impact on local ecology.

There is no need for more than one access into the site.

Several shipping containers are now sited on the land. These and other waste on the site are an eyesore.

It is noted that the proposal has been amended to include just one access, however plans showing appropriate visibility have not been provided.

NOTE: The scheme has been amended since it was first submitted, removing the proposed mobile home, kennels, one of the accesses and fencing. As such, some of the above points have been addressed.

## **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

The site is located just off the A361, at Stoodleigh Cross. It is in a countryside location, where policy S14 seeks to preserve and where possible enhance the character, appearance and biodiversity of the countryside while promoting sustainable diversification of the rural economy. Development is restricted to agricultural and other appropriate rural uses.

Policy DM20 states that agricultural development will be permitted where:

- a) The development is reasonably necessary to support farming activity on that farm or in the immediate agricultural community;
- b) The development is sensitively located to limit any adverse effects on the living conditions of local residents and is well-designed, respecting the character and appearance of the area;
- c) The development will not have an unacceptable adverse impact on the environment; and
- d) The development will not have an unacceptable traffic impact on the local road network.

A summary assessment of the scheme against these criteria is set out below:

- a) The proposal relates to a previously undeveloped parcel of land comprising approximately 1.5 acres of grassland. There is no existing agricultural enterprise operating from the site, however the applicants have purchased the land with the intention of operating a smallholding. The proposed business will include the growing of a variety of fruit and vegetable crops, in the proposed polytunnels, greenhouse and raised beds. The main crop identified by the applicant

is the growing of a large crop of elephant garlic, which provides the main justification for the larger agricultural building (referred to as '4 – Fruit & Veg Shed'), which would measure approximately 13.7m by 6.1m in floor area, and the larger polytunnel ('9 – Polytunnel'), which would be approximately 45.7m by 4.3m. The applicant has advised that the garlic crop would be grown on a two year cycle with approximately 240 garlic cloves planted in the spring of year 1. This will yield approximately 1920 cloves of garlic, which would be harvested from the 240 bulbs with those being planted in in the autumn of year 1. This would in turn provide a spring harvest of around 1920 bulbs of garlic, which would produce a yield of 15,360 cloves of garlic, which would be planted in the same spring of year 2. This crop should then produce 15,360 bulbs, of which 1920 would be replanted as in the previous crop, with the remaining bulbs being sold. These steps would be repeated in the following years, with an anticipated two harvest a year. The proposed larger agricultural building is required to process and box the garlic, as well as provide on-site storage as the amount of garlic anticipated to be produced cannot be left in the ground.

During negotiations, officers have recommended that the scheme be reduced in scale to the minimum possible to enable the applicant to start up their business, with the potential then for expansion, as appropriate should the business be successful, and subject to gaining the necessary planning consents. Ultimately, the site is agricultural land, which can be farmed in a variety of ways, including for the growing of fruit and vegetables, without needing to apply for planning permission. It is however necessary to apply for permission for the buildings proposed. Noting that this is agricultural land, it is considered that the provision of some buildings to facilitate the agricultural use proposed would be acceptable in principle, subject to appropriate justification. It is now considered that the proposed level of development is appropriate to reasonably meet the needs of the operation proposed. Following the planning officer's request for a reduction in scale of development, no changes have been made to the larger polytunnel, with the above information provided to justify its size, however the storage building has been considerably reduced in size by about half, with the footprint reduced from approximately 167 square metres to the currently proposed 83 square metres. In addition, a proposed mobile home, which was proposed to provide rest and toilet facilities on site has been omitted, with a toilet proposed within the larger building too. The other buildings proposed include a glasshouse for growing fruit and tropical plants, a smaller polytunnel, small tool shed, a chicken shed and goat shed, proposed to accommodate around six to eight chickens and two goats respectively. Otherwise, a number of low profile raised beds are also proposed.

Overall, it is considered that the proposed buildings and temporary structures are necessary to support farming activity on the site.

In addition a new enlarged access is proposed, which would be located centrally within the site. There is one original access to the north east corner of the site, which is small and substandard, with restricted width and visibility. As such, the provision of a new access is considered reasonable too, subject to consideration of the impact of this access on highway safety and amenities of the area. It is noted that another unauthorised access has been provided to the western end of the site. Planning officers had reservations about the need for more than one access, therefore following discussions, the applicant has agreed to omit this additional access from the proposal. Furthermore, the applicant has agreed to the reinstatement of this access and roadside bank.

- b) The site is located over 500 metres from the nearest residential property. Noting the scale and nature of the development proposed, it is not considered that the proposal would lead to any adverse impact on the living conditions of local residents. Concerns had originally been

received in respect to noise and waste generated by the kennels, originally applied for, however since that element of the scheme is no longer included, this is not an issue anymore.

In assessing the impact on the character and appearance of the locality, it is considered that the proposed group of buildings are satisfactorily sited to limit their impact on the visual amenities of the area. The site is very well screened from the A361 due to existing dense hedge on the southern boundary, which means the site is not readily visible from this direction. Due to the topography of the site, and the location of the public highway to the north of the site, views are also limited to the immediate vicinity. It is acknowledged that the development will be visible from the adjoining highway, as a result of the size and shape of the site, however the buildings and structures are now proposed to be grouped together, limiting their spread throughout the site. The proposed larger agricultural building is to be constructed with metal cladding in a dark green finish, with black roof, while the remaining smaller sheds will be timber clad, materials that are typical of rural development of an agricultural nature. Otherwise, it is noted that rather than being completely undeveloped, the site is seen in the context of the large solar farm to the north, and the A361, although the latter is well screened from the site.

The proposed access will lead to removal of part of the northern boundary, however rather than the removal of a large section of native species hedgerow, this part of site boundary is formed by an earthen bank which was vegetated by unmanaged species including bracken, and some great willow herb, hogweed, nettles and bindweed. This section of the site is also located in a position where visibility splays are able to be provided without the need for largescale removal or realignment of the roadside boundary. The applicant has agreed to install a traditional five bar timber field gate rather than a solid high fence as is currently seen on site.

Overall, while the introduction of the access, buildings and temporary structures would lead to some minor harm to local character, this is considered to be appropriately justified as a small-scale rural enterprise, which will promote sustainable diversification of the rural economy, in line with the requirements of Local Plan policy S14.

In order to further protect the amenities and character of the area, it is considered reasonable to require the details of any lighting to be provided and agreed prior to installation. It is also considered appropriate to remove permitted development rights for the provision of any fences, walls, gates or other means of enclosure, other than those proposed in the submitted details. In this case that is restricted to the provision of the gate at the new access.

The applicant has advised that they would be willing to accept a temporary condition, requiring the removal of the buildings should they be unsuccessful in establishing their business within the anticipated three years. While this is noted, it is not considered reasonable in this case to impose a time restricted condition such as this. Temporary conditions are not encouraged except in very special circumstances. It is however considered reasonable to restrict the use of the building to agricultural purposes only, as this would prevent future changes in use that may otherwise be allowed under permitted development rights, but may lead to intensification of the use of the site in a manner that may adversely impact on the areas character.

It is acknowledged that there are additional unauthorised works that have taken place within the western part of the site, which are currently having a harmful impact on visual amenity, specifically the provision of the unauthorised access, provision of associated fencing and gate, storage of materials and provision of containers. It should however be noted that the applicant is not seeking to retain these works as part of this proposal and has confirmed that it is their intention to put these right. As they do not form part of the proposal, the imposition of conditions to rectify the situation would not be reasonable as they would not meet the test for

conditions included within the Government's Planning Practice Guidance. One exception would be the closure of the access, for which it is considered reasonable for highway safety grounds. A condition will be imposed for the closure of the original access following the proposed access being brought into use, in which case it is considered reasonable to include the closure of the unauthorised access as part of this condition. Otherwise, the removal of any non-agricultural waste and paraphernalia, and temporary storage buildings will need to be subject to formal enforcement action, if not carried out promptly by the applicant. It is however also relevant to note that permitted development rights do exist for the use of land on a temporary basis for the storage of construction materials and siting temporary buildings in connection with permitted works. The applicant has advised that the materials originally brought onto site were a mix of agricultural equipment, such as a trailer, and timber which was intended to be used in the construction of the wooden buildings, and boundary fencing, which has since been omitted from the proposal. Should permission be granted, it remains the applicant's intention to use the timber currently on site for the construction of the buildings and raised beds. As such, they have advised that the containers have been brought onto site to store the materials securely, and away from view. Should planning permission be granted, it is advised that the containers would be removed following construction of the buildings on site.

- c) In considering the impact on the environment, the proposed development relates to a relatively low-key agricultural use, which is not considered to lead to any unacceptable impact. Concerns had initially been raised about the impact of the kennels that had originally been proposed, however these are now largely irrelevant. Particular concern was raised about how surface water run-off would be disposed of, with specific reference to the disposal of foul water with there being a need to wash down the kennels, and dispose of solid foul waste, matters which no longer require consideration.

The proposal does still include the provision of a septic tank to provide a connection to the toilet proposed on site, with some comments still received in respect to the ability for a soakaway to function, as it is suggested that the ground is largely clay and impermeable. This is noted, however the applicant did carry out permeability testing prior to submitting the application. While the tests did identify areas of clay, which were classed as being practically impermeable, tests did also identify several areas of gravelly sand, which provided good permeability, albeit not to a great depth. The report did however indicate that a shallow herringbone/grid drainage design would be suitable in the area of more permeable ground. The proposed details incorporate this arrangement for the septic tank output, which is considered to be acceptable.

Concerns were originally raised about the provision of the unauthorised access causing surface water flooding of the adjoining road. The applicant had indicated that the runoff was not actually from their site but from adjoining higher land. Notwithstanding this, a drainage channel running around the north eastern corner of the site, in the area where the flooding occurred was found to have been blocked and has since been cleared. Following this occurring, it is noted that the surface water flooding has ceased.

The remainder of the development will not introduce too much in the way of additional impermeable surfaces, with the track into the site proposed to be finished with permeable compacted stone rather than tarmac or other impermeable solid surface. It is proposed to harvest water from the roofs to the proposed buildings and store in tanks on site. This is also part of a solution to provide a supply of water on site. Some of the contributors had noted that there was no water supply on site. The applicant has advised that subject to permission from an adjoining landowner, they may be able to gain a connection, however have provided details of a water filtration system that they intend to use on site, which will allow rain water from the main agricultural building, greenhouse and polytunnels to be filtered and used for watering



crops and providing drinking water for the few animals proposed. This solution would address any additional runoff from the buildings and offer an additional water supply for use on site.

The application is supported by a preliminary ecology appraisal, which has not identified any significant constraints to development. The Ecologist has visited the site and assessed the habitats on site, identifying the boundary vegetation as being generally species poor and being for the most part of negligible potential for presence of protected species. There was low potential for light –averse bat species to use the boundary habitats, with most likelihood of the southern boundary hedge being used. There is some potential for birds to nest in the hedgerows and shrubs of the site. It is also identified that there are dormice present in the wider landscape, however the nature of the site and lack of fruiting hazel, provide limited potential for dormice to be present however. With the exception of the new access being provided, which will impact on a poorly vegetated earth bank rather than species rich hedgerow, the proposed development does not include any works to the remainder of the boundaries, where any species may have some potential to be present. The submitted ecological appraisal therefore includes precautionary measures to avoid committing an offence, should protected species or nesting birds be found, the introduction of a 2 metre construction buffer to avoid disturbing the site boundaries, and limitations on light close to the boundaries. There are also proposed biodiversity enhancements, which include the provision of a bat box and nesting box to the proposed larger building. With these recommendations adopted, the proposal is considered to appropriately take into account the protection and conservation of local ecology. A condition will be imposed to ensure that these measures are adhered to. Additionally the proposed condition, requiring any details of lighting to be agreed prior to use will offer further protection to light sensitive species.

- d) The proposal includes the provision of a new access to the land, which is considered to be acceptable. As discussed above, the land is serviced by an existing original lawful access to the north east corner of the field, however this is sub-standard with restricted width and visibility. The applicant could reasonably continue using this, however the proposed new access would be sited on a stretch of the public highway where there is greater visibility in each direction. It is also sited at a good distance from the A361 so as to avoid conflicting movements in close proximity to this. Following the provision of plans indicating the ability to provide visibility splays of 71 metres to the west and 150 metres to the east, the County Highway Authority have raised no objections, considering the proposed visibility to be appropriate to serve the road network at this point. As the proposed access would replace a sub-standard access, a condition is imposed to require that access to be stopped up. There is an unauthorised access that was created recently, and initially included in the proposals. This has since been omitted from the plans, and as discussed earlier, the condition proposed to require the lawful access to be stopped up shall include the same requirement for this access too. In addition, the proposed use will be limited to agricultural purposes, with are not considered to generate any additional movements that would have a significant impact on highway safety. Overall, it is not considered that the proposed development would have an unacceptable traffic impact on the local road network.

Taking the above considerations into account, the proposal is deemed to be acceptable and to comply with policies S14 and DM20 of the Mid Devon Local Plan 2013-2033.

## **SUMMARY**

The proposed development comprising the erection agricultural buildings, polytunnels, raised beds, creation of new access and septic tanks are considered acceptable. They are deemed to be reasonably necessary to support the proposed agricultural activities on the land and are not considered to have an unacceptable impact on the environment, landscape or highway safety.

The proposal is considered to be acceptable and in accordance with policies S1, S9, S14 and DM20 of the Mid Devon Local Plan 2013-2033.

## CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice.
3. Notwithstanding the details indicated on the approved plans, the external walls of the agricultural building referred to as '4 - Fruit & Veg Shed', shall be finished with dark green colour cladding, in accordance with details indicated in correspondence dated 29<sup>th</sup> June 2022 (email from Charles Kefford to John Millar).
4. The design and finish of the proposed gate to the new vehicular access shall be in accordance with details indicated within correspondence dated 6<sup>th</sup> April 2022 (email from Charles Kefford to John Millar).
5. There shall be no obstruction to visibility greater than 600mm above adjoining road level forward of the visibility splays shown on approved plans '964-02D', for the new access hereby approved. Such visibility shall be fully provided before the new access is first brought into use and shall thereafter be maintained at all times.
6. The existing accesses serving the site, which are located in the positions referred to as 'G/A (Gate Access) to be closed' on the submitted 'Existing Access Plan', received 30<sup>th</sup> June 2022, shall be effectively and permanently closed within one month of the new access hereby permitted being brought into use, in accordance with details which shall previously have been submitted to and approved in writing by the Local Planning Authority.
7. No means of external lighting or other external illumination shall be installed on the building hereby approved or operated on any part of the subject land, unless details of such additional new lighting has first been submitted to and approved in writing by the Local Planning Authority. Such approved details, once implemented shall not thereafter be altered without the prior written agreement of the Local Planning Authority.
8. The development hereby permitted shall be carried out in accordance with the recommendations detailed in the submitted *Preliminary Ecological Appraisal* (prepared by Western Ecology - dated August 2021) covering avoidance of harm to protected species and nesting birds, and mitigation measures, unless otherwise approved in writing by the Local Planning Authority.
9. The buildings hereby approved shall at all times be used for agricultural purposes only and shall not be used for any other commercial or non-agricultural activity.
10. No retail sales shall be carried out directly from the land or buildings hereby permitted.
11. Notwithstanding the provisions of Article 3 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) no new gates, fences, walls or other means of enclosure shall be erected or installed within the application site, other than that expressly permitted by this planning permission, without the Local Planning Authority first granting planning

permission.

## **REASONS FOR CONDITIONS**

1. In accordance with provisions of Section 51 of the Planning and Compulsory Purchase Act 2004.
2. For the avoidance of doubt in the interests of proper planning.
3. To ensure the use of materials appropriate to the development in order to safeguard the character and amenities of the area in accordance with policies S9, DM1 and DM20 of the Mid Devon Local Plan 2013-2033 and the aims and objectives of the National Planning Policy Framework.
4. To safeguard the character and amenities of the area in accordance with policies S9, DM1 and DM20 of the Mid Devon Local Plan 2013-2033 and the aims and objectives of the National Planning Policy Framework.
5. In the interests of highway safety, in accordance with policy DM3 of the Mid Devon Local Plan 2013-2033 and the aims and objectives of the National Planning Policy Framework.
6. In the interests of highway safety, in accordance with policy DM3 of the Mid Devon Local Plan 2013-2033 and the aims and objectives of the National Planning Policy Framework.
7. To safeguard the character and amenities of the area and for the conservation and protection of ecology in accordance with policies S9, DM1 and DM20 of the Mid Devon Local Plan 2013-2033 and the aims and objectives of the National Planning Policy Framework.
8. For the conservation and protection of legally protected species, in accordance with policies S9 and DM1 of the Mid Devon Local Plan 2013-2033, the provisions of the National Planning Policy Framework, and to ensure compliance with The Wildlife and Countryside Act 1981 (as amended).
9. To control future use of the buildings, in order to safeguard the character and amenities of the area and in the interests of highway safety, in accordance with policies S9 and DM20 of the Mid Devon Local Plan 2013-2033 and the aims and objectives of the National Planning Policy Framework.
10. To safeguard the character and amenities of the area and in the interests of highway safety in accordance with policies S9, DM1, DM3 and DM20 of the Mid Devon Local Plan 2013-2033 and the aims and objectives of the National Planning Policy Framework.
11. To safeguard the character and amenities of the area in accordance with policies S9, DM1 and DM20 of the Mid Devon Local Plan 2013-2033 and the aims and objectives of the National Planning Policy Framework.

## **INFORMATIVES**

Section 149 of the Equality Act 2010 places a statutory duty on public authorities in the exercise of their functions to have due regard to the need to eliminate discrimination and advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and foster good relations between different people when carrying out their activities.

This is called the Public Sector Equality Duty or "PSED". No persons that could be affected by the development have been identified as sharing any protected characteristic.

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

## **APPENDIX 1**

### **EMAIL CORRESPONDENCE DATED 29<sup>TH</sup> JUNE 2022, REFERRED TO IN CONDITION 3**

**From:** Charles Kefford  
**Sent:** 29 June 2022 12:16  
**To:** John Millar  
**Subject:** Building colour

Hi John

As you requested and previously stated agricultural building is to be a dark green.

Many thanks  
Charles kefford

## **APPENDIX 2**

### **EMAIL CORRESPONDENCE DATED 6<sup>TH</sup> APRIL 2022, REFERRED TO IN CONDITION 4**

**From:** Charles Kefford  
**Sent:** 06 April 2022 16:07  
**To:** John Millar  
**Subject:** RE: Planning 21/01420/FULL - Stoodleigh Cross

Hi John

Happy to have a reduced size gate.

Please see attached photo of the type we would like.

1 metre high, but made from wood, in a natural finished as in the picture. Would that be suitable?

Many thanks  
Charles



Application No. 20/00273/MFUL

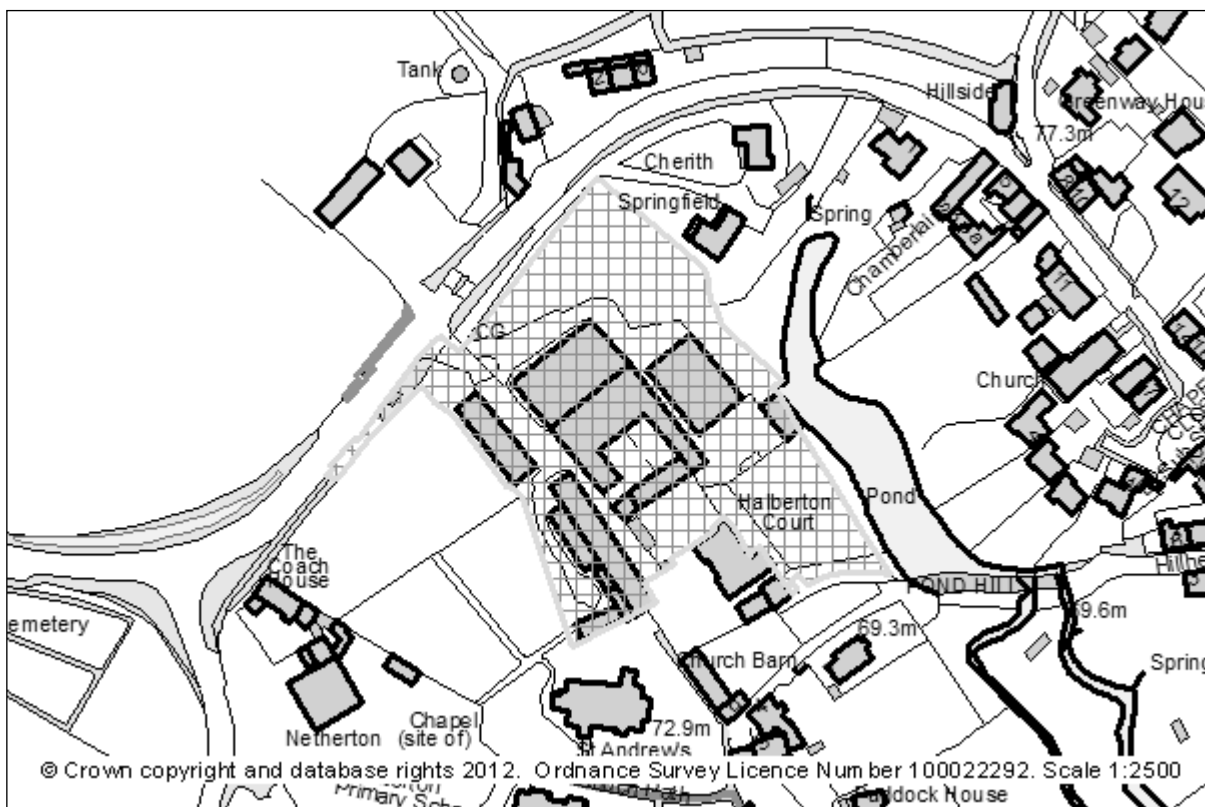
Grid Ref: 300608 : 112938

Applicant: Mr A Stevens

Location: Halberton Court Farm  
High Street  
Halberton  
Tiverton

Proposal: Erection of 9 dwellings, conversion of barns to 5 dwellings, with associated works including access improvements and landscaping (Revised Scheme)

Date Valid: 23rd March 2020



## **APPLICATION NO: 20/00273/MFUL**

### **MEMBER CALL-IN**

At Planning Committee on the 20<sup>th</sup> May 2020 Members agreed that Application 20/00273/MFUL - Halberton Court Farm, Halberton be brought before the committee if the officer recommendation was minded to approve.

### **RECOMMENDATION**

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

- Provision of four 'First Homes' (a Dwelling which may be disposed of as a freehold or (in the case of flats only) as a leasehold property to a First Time Buyer at the Discount Market Price) in perpetuity subject to the terms to be contained within the Schedule of the S106 agreement.
- Public Open Space contribution of the sum of £20,188 to be used towards the acquisition of land within the parish of Halberton to be used as public open space.
- School Transport Contribution of the sum of £6,922 towards secondary school transport costs in relation to Tiverton High School.

### **PROPOSED DEVELOPMENT**

The applicant seeks planning permission for the erection of 9 dwellings, conversion of barns to 5 dwellings, with associated works including access improvements and landscaping (Revised Scheme) at Halberton Court Farm, High Street, Halberton.

The site, is located on the north western side of the village of Halberton, close to the village centre. The site comprises a mix of modern and traditional farm buildings to the southeast of High Street. The proposal is for a total of 14 new dwellings provided through a mix of barn conversions and new build, with associated infrastructure such as access, landscaping and parking. Vehicular access would be provided directly off the High Street, the main road that runs through Halberton. In terms of affordable housing, the First Homes would be plots 2, 3, 4 and 5.

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

Complete application form, plans, Design and Access Statement, Transport Statement, Arboricultural Impact Assessment, Arboricultural Report and Method Statement, Archaeological Desk Based Assessment with settings assessment, Bat Emergence/Activity Surveys, copy of appeal decision APP/Y1138/W/19/3235159, Flood Risk and Drainage Assessment, Drainage Calculations, Soakaway Test Report, Canal Breach Flood Impact Assessment, Ecology Survey, Reptile Statement, Historic Building Assessment, Landscape Statement, Phase 1: Preliminary Contamination Assessment Report, Report on Building Structure, Structural Survey Supplementary Document, Statement of Community Involvement, Waste Audit Statement



## **RELEVANT PLANNING HISTORY**

78/00521/FULL - PERMIT date 7th June 1978 Erection of a silage barn for fodder storage  
90/00983/FULL - PERMIT date 29th June 1990 Erection of agricultural livestock building (after demolition of existing)

07/01035/CAT - NOBJ date 25th July 2007 Notification of intention to carry out works to trees within a Conservation Area

07/02021/FULL - PERMIT date 25th January 2008 Erection of farm shop and associated works

97/00153/FULL - PERMIT date 6th March 1997 Change of use of land to form enlarged residential curtilage

18/00518/MFUL - CLOSED date 23rd January 2020 Erection of 40 dwellings, conversion of barns to 7 dwellings, formation of new accesses and car parking areas, with associated works including access and landscaping APPEAL DISMISSED 29/11/19

18/02033/CAT - NOBJ date 17th January 2019 Notification of intention to remove 1 Oak tree within the Conservation Area

## **DEVELOPMENT PLAN POLICIES**

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

Policy S1 - Sustainable development priorities  
Policy S3 - Meeting housing needs  
Policy S5 - Public open space  
Policy S8 – Infrastructure  
Policy S9 – Environment  
Policy S13 – Villages  
Policy DM1 - High quality design  
Policy DM2 - Renewable and low carbon energy  
Policy DM3 - Transport and air quality  
Policy DM5 – Parking  
Policy DM9 - Conversion of rural buildings  
Policy DM25 - Development affecting heritage assets

National Planning Policy Framework

National Planning Practice Guidance

## **CONSULTATIONS**

Halberton Parish Council – 18<sup>th</sup> February 2021

After discussion, it was RESOLVED by the Councillors of Halberton Parish Council to submit a response to the effect that whilst they supported the application they had a number of comments for consideration by the applicant and MDDC. These comments were conveyed to you on 16th February and 21st February 2021 and remain in situ. With regard to the revised application, further comments were raised and are entered in bold as appropriate.

a) plot 9 is too close to the pond and there should be a buffer zone

The location of plot 9 is too close to the pond and should be moved or removed. An adequate buffer zone should be installed between any development and the pond to preserve and enhance the wildlife, improve amenity and protect properties from flooding. Any drainage of the new development should avoid entering the pond in the new scheme.

b) the development should meet the current guidelines for new builds and solar panels

The developer should install energy saving technology on all the properties such as photovoltaic panels.

c) road access to the development should be safe for all road users

The approach road to the development from Tiverton should be made safer to prevent the build up of vehicles turning right into the new development off the main road, by the possible creation of a filter lane, the movement of the current 30mph speed limit signs and new signage warning road users of the new development. This would be important to be installed prior to any works commencing to improve road safety due to increased traffic due to construction site vehicles.

d) the views to and from the church should be protected

The views to and from the church and the canal over the new development should be protected.

e) the historic interest of the site was considered

Prior to and during any works on the new development all historic and archaeological points of interest should be reported due to its close proximity to the very earliest settlements and buildings of Halberton.

f) as a matter of priority there was a pathway connecting the site to the lower village area and school

In prior applications of this development there was a pathway connecting the new development to the lower village which contains the school, church and recreation areas. It is very important that this pathway is included to ensure connectivity within the village. Possible S106 money could be used in funding the path if it was included in the development.

g) there was no supporting plan to show the two entrances and the removal of the lay-by could pose parking problems for local residents

h) the bus shelter is Parish Council property and could not be removed/replaced without consent. If a replacement is required it is of design approved by the Parish Council.

The Parish Council would hope that these comments would be taken into consideration when assessing the application and assigning conditions.

Devon, Cornwall & Dorset Police - 4th February 2021

Thank you for this application, the proposed revised layout is noted. I have no objections in principle with regard to crime and anti-social behaviour prevention, the proposed layout would appear to provide reasonable overlooking and active frontages to the new internal streets. However, it is not possible to comment in depth as the available plans and supporting information reveals few if any details from this perspective, for example boundary treatments.

Please note the following comments from a designing out crime, fear of crime, antisocial behaviour (ASB) and community conflict perspective:-

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

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

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

SBD also incorporates a bespoke element to assist in the crime prevention approach with regard to listed buildings and heritage status.

Secured by Design (SBD) is a crime prevention initiative managed by Police Crime Prevention Initiatives Ltd (PCPI) on behalf of the UK police services. SBD aims to reduce crime, the fear of crime and opportunities for antisocial behaviour and conflict within developments by applying the attributes of Environmental Design, as follows, in conjunction with appropriate physical security measures.

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

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

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

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

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

' Physical protection: Places that include necessary, well-designed security features as laid out in SBD Homes 2016

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

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

I can find no details of proposed plot boundary treatments within the available documents. I would advise that for all plots that private front gardens are suitably defined. Open frontage, particularly but not exclusively, on corner plots, can for many reasons frequently lead to community conflict, for example, desire lines for pedestrians and cyclists are created, dog fouling, ball games and anti-social behaviour.

Perimeter security is one the basic principles of crime prevention, being the first line of defence against unwanted trespassers, as such all rear boundary treatments must be 1.8m high, as a minimum requirement, and be solid and robust to prevent being breached. Close boarded fencing or walls would be deemed appropriate. If more surveillance is required or 1.8m would feel too closed in for smaller gardens then a 1.5m solid structure with a .3m trellis topping would be acceptable. It is accepted that on some occasions gradients of land or other permanent solid

structures can have an impact on the need, choice and height of boundary treatments but these should be assessed on their own merits to ensure the boundary treatment is appropriate to any potential risk of trespass.

If an existing hedge is to form rear garden boundary then it must be fit for purpose. They should be of sufficient height and depth to provide both a consistent and effective defensive boundary as soon as residents move in. If additional planting will be required to achieve this then temporary fencing may be required until such planting has matured. Any hedge must be of a type which does not undergo radical seasonal change which would affect its security function.

All planned routes should be needed, well used by generating adequate footfall, overlooked and well-integrated. Research confirms that inappropriate access can create hiding places and give anonymity to offenders enabling them to familiarise themselves with an area, search for vulnerable targets, offend and escape. Crime is always easier to commit where there is little or no chance of an offender being challenged or recognised. Levels of anti-social behaviour will also be correspondingly high in designs that reduce residential influence. Please do not hesitate to contact me if any clarification is sought or I can assist further.

Devon, Cornwall & Dorset Police - 7th June 2021

I have no further comments at this time and refer the applicant to my previous comments of Feb 2021 which remain valid from a crime and anti-social behaviour reduction perspective.

Highway Authority – 7<sup>th</sup> June 2021

Previous Comments:

This application has now been revised with new drawings and numbers of dwellings therefore I am giving my observations on these new proposals.

The site is accessed off C classified Road which is restricted to 30 MPH

The number of personal injury collisions which have been reported to the police in this area between 01/01/2015 and 31/12/2019 is none.

The new drawing number 2101 Rev P02 which has been submitted showing a new location of the access, it also shows the visibility splays are a minimum 2.4 x 43 metres. Although this access has not incorporated the existing access to properties Springfield and Cherith, which causes a conflict between vehicles using both access and therefore is not a safe and suitable access.

The same drawing does show a footway connection to the bus stop on the South but there is no safe footway and formal crossing point for access to the bus stop on the North side and access to the farm shop.

Therefore the County Highway Authority would recommend refusal due to an unsafe and suitable access.

Additional Information received:

Drawing Number PED/HC/2019 Block Plan has been submitted showing the reconfiguration of the Access which is now acceptable. This drawing also shows online bus stops to be provided on both sides of the carriageway.

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

Recommendation:

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

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

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.

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

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

Natural England - 14th June 2021

Natural England has previously commented on this proposal and made comments to the authority in our letters dated 7th April 2020, 4th May 2020 and 15th February 2021.

The advice provided in our previous response applies equally to this amendment although we made no objection to the original proposal.

The proposed amendments to the original application are unlikely to have significantly different impacts on the natural environment than the original proposal.

Should the proposal be amended in a way which significantly affects its impact on the natural environment then, in accordance with Section 4 of the Natural Environment and Rural Communities Act 2006, Natural England should be consulted again. Before sending us the amended consultation, please assess whether the changes proposed will materially affect any of the advice we have previously offered. If they are unlikely to do so, please do not re-consult us.

DCC – Education – 13<sup>th</sup> July 2021

Please see updated response below.

Regarding the application above, Devon County Council has identified that the proposed increase of 14 family type dwellings would generate an additional 3.5 primary pupils and 2.1 secondary pupils which would have a direct impact on Halberton Primary School and Tiverton High.

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

We have forecasted that there is currently capacity at the nearest primary and secondary school for the number of pupils likely to be generated by the proposed development and therefore a contribution towards education infrastructure will not be sought.

We will however require a contribution towards secondary school transport costs due to the development being further than 2.25 miles from Tiverton High. The cost required is as follows:

2.1 Secondary pupils

£3.47 per day x 2.1 pupils x 190 academic days x 5 years = £6,922

The school transport contribution above has been calculated using the current contract cost of transporting a pupil from the development to the named school. The number of academic days and years is based on the number of term days in a school year and the number of years a pupil is expected to attend school. The contribution will ensure pupils living within the development will have school transport available for every year they are attending the school. It is considered that this is an appropriate methodology to ensure that the contribution is fairly and reasonably related in scale to the development proposed which complies with CIL Regulation 122.

It should be noted that in accordance with the County Council's Education Infrastructure Plan, education contributions are required from all family type dwellings, including both market and affordable dwellings. Affordable housing generates a need for education facilities and therefore any affordable units to be provided as part of this development should not be discounted from the request for education contributions set out above. Such an approach would be contrary to the County Council's policy and result in unmitigated development impacts.

All contributions will be subject to indexation using BCIS.

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.

Historic Environment Team – 7<sup>th</sup> June 2021

Comments: Comments from Stephen Reed, Senior Historic Environment Officer  
Devon County Historic Environment Team ref: Arch/DM/MD/35346d

The Historic Environment Team have no additional comments to make on this revised scheme to those already made, namely:

The proposed development lies within an area of archaeological potential close to the parish church, and involves the conversion of some historic farm buildings. While a historic building

appraisal report has been submitted in support of this application this work may need to be supplemented by additional recording and observations undertaken during the course of the conversion works where further historic building fabric and fixtures and fittings may be revealed. In addition, there is the potential for the site to contain heritage assets with archaeological interest associated with the early settlement here. As such, groundworks and building conversion work associated with the proposed development have the potential to expose and destroy archaeological and artefactual deposits associated with the early settlement, as well as affecting historic building fabric.

The impact of development upon these heritage assets should be mitigated by a programme of archaeological work that should investigate, record and analyse the archaeological evidence that will otherwise be destroyed by the proposed development.

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

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

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

#### Reason

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

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

I would envisage a suitable programme of work as taking the form of a programme of historic building recording and a staged programme of archaeological works, commencing with the excavation of a series of evaluative trenches to determine the presence and significance of any heritage assets with archaeological interest that will be affected by the development. Based on the results of this initial stage of works the requirement and scope of any further archaeological mitigation can be determined and implemented either in advance of or during construction works. This archaeological mitigation work may take the form of full area excavation in advance of groundworks or the monitoring and recording of groundworks associated with the construction of the proposed development to allow for the identification, investigation and recording of any exposed archaeological or artefactual deposits.

The results of the historic building recording and archaeological investigations fieldwork as well as any post-excavation analysis undertaken would need to be presented in an appropriately detailed and illustrated report and the finds and archive deposited in accordance with relevant national and local guidelines.

I will be happy to discuss this further with you, the applicant or their agent. The Historic Environment Team can also provide the applicant with advice of the scope of the works required, as well as contact details for archaeological contractors who would be able to undertake this work. Provision of detailed advice to non-householder developers may incur a charge. For further information on the historic environment and planning, and our charging schedule please refer the applicant to: <https://new.devon.gov.uk/historicenvironment/development-management/>.

#### Lead Local Flood Authority – 18<sup>th</sup> October 2021

Our objection is withdrawn and we have no in-principle objections to the above planning application at this stage, assuming that the following pre-commencement planning conditions are imposed on any approved permission:

- No development hereby permitted shall commence until the following information has been submitted to and approved in writing by the Local Planning Authority:
  - (a) A detailed drainage design based upon the approved Flood Risk Assessment and Drainage Strategy.
  - (b) Detailed proposals for the management of surface water and silt runoff from the site during construction of the development hereby permitted.
  - (c) Proposals for the adoption and maintenance of the permanent surface water drainage system.
  - (d) A plan indicating how exceedance flows will be safely managed at the site.
  - (e) An assessment of the condition of the watercourse which will be affected by the proposals. The assessment should identify and commit to, any repair and/or improvement works to secure the proper function of the surface water drainage receptor.No building hereby permitted shall be occupied until the works have been approved and implemented in accordance with the details under (a) - (e) above.

Reason: The above conditions are required to ensure the proposed surface water drainage system will operate effectively and will not cause an increase in flood risk either on the site, adjacent land or downstream in line with SuDS for Devon Guidance (2017) and national policies, including NPPF and PPG.

The conditions should be pre-commencement since it is essential that the proposed surface water drainage system is shown to be feasible before works begin to avoid redesign / unnecessary delays during construction when site layout is fixed.

#### Observations:

Following my previous consultation response (FRM/MD/00273/2020; dated 17th March 2021), the applicant has provided additional information in relation to the surface water drainage aspects of the above planning application, in an e-mail dated 29th September 2021, for which I am grateful. The applicant has noted, within section 3.2.06 of the Flood Risk Assessment, that groundwater is shallow within this site. Groundwater should be assessed by the applicant to ensure that it will not affect the surface water drainage system (such as floatation). The applicant has proposed rain gardens and permeable paving to treat surface water. The applicant has also demonstrated that the proposed culvert diversion could be amended to prevent any 90 degree bends.



Conservation Officer – 9<sup>th</sup> June 2022

I last commented on this application in its original form. I was then involved in negotiation in the life of the application and gave comment at that time.

You will be aware that the Halberton Conservation Area Assessment identifies land to the north west of the Church as a visually important space (VIOS), one which was supported by the Inspector at Appeal who also agreed that the views from the Churchyard were important.

The VIOS extends up to the existing access into the site.

The proposal resites the access to the north east and removes houses from the VIOS. However the applicant indicated in the discussions that they were not able to secure the use of the existing access for the proposal so the access remains an incursion into the edge of the VIOS.

It should be noted that there is no housing proposed in the VIOS, and the views from the church will be maintained over the new road. Views back to the church are also important and to that end the details of the access, planting and height and materials of the retaining wall and details of the agricultural access are important and will need to be conditioned. We also need to be careful regarding the design and position of lamp standards.

Overall there is a slight change to the VIOS and the setting of the Church from the proposal, but that change is minimal and is not building that would obscure the view. You would need to balance any harm against the public benefit of the proposal in the conservation area.

Grand Western Canal Advisory Committee - 30th April 2020

I am writing on behalf of the Grand Western Canal Joint Advisory Committee. This Application appears to be a re-working of the 2018 Application; 18/00518/MFUL. The revisions have heeded many of the Inspector's observations made during the 19/00036/WR Appeal. However, the impact on the Grand Western Canal remains very similar. Members objected to the 2018 Application's potential to damage the Grand Western Canal's Conservation Area, the rural character of the Country Park and the Local Nature Reserve, disagreeing with the Applicant's 2018 Landscape Statement that the new dwellings in the proposed development would be unobtrusively low in views from the mile of canal towpath overlooking the valley head known as the Swan's Neck. They also disagree with the Inspector's opinion that the visual impact would have been minimal. The 2020 Application has not changed Members' objection to the impact on the "canalscape".

I understand that the majority of the proposed dwellings will be outside Halberton's Settlement Limit. In 2018, and again in 2020, Members are very concerned that, if permitted, this may herald creeping development that threatens to join Post Hill and Tiverton's Eastern Urban Extension, thereby removing the countryside space that delineates Halberton.

Housing Enabling Officer – 29<sup>th</sup> January 2021

Please note the current housing needs demand for Devon Home Choice for those living or working in the village requiring affordable rented accommodation.

1 B/H - 5 (3 general needs, 1 Step Free, 1 max 3 Steps)

Public Health Team – 7<sup>th</sup> April 2020

**Contaminated Land:** The proposed development may be on land affected by land contamination resulting from a wide range of previous and current land use(s). Therefore the following condition is recommended:

Prior to development commencing, the applicant shall carry out a detailed phase II intrusive investigation and risk assessment aimed at identifying the full extent and type of land contamination identified during the phase I assessment.

A report of the investigation and its recommendations shall be submitted for approval to the Local Planning Authority for consultation with Environmental Health Services (and other agencies if required).

If required, a site remediation statement shall be submitted for approval to the Local Planning Authority for consultation with Environmental Health Services (and other agencies if required).

Following completion of any required remediation works, a validation report shall be submitted to the Local Planning Authority for consultation with Environmental Health Services (and other agencies if required).

Development on the site shall not commence until the land contamination investigation report and remediation have been approved in writing. Occupation on the site, or parts of the site affected by land contamination, shall not take place until the validation report has been approved in writing.

**Reason:** In the interests of public health and protection of the environment.

(Note: it is suggested that applicants, agents and developers take specialist consultant advice before complying with this condition. (31.03.20).

**Air Quality:** No objection to this proposal. (31.03.20).

**Environmental Permitting:** No objection to this proposal. (30.03.20).

**Drainage:** No objection to this proposal. (31.03.20).

**Noise & other nuisances:** No objection to this proposal. (31.03.20).

**Housing Standards:** The following units are all showing a layout that creates the bedrooms as inner rooms. This means the primary means of escape in the event of fire leads directly to a high risk room such as the kitchen/dining/living area. Recommend the layouts are adjusted to ensure the stairs descend to a place of safety or the bedroom of the flat is able to escape to the main entrance. Units affected are 3, 8, 9, 10, 11, 17, 19, 20, 21, 24, 27, 28, 29, 30, 36, 43 and 44. (06.04.20).

**Licensing:** No comments. (30.03.20).

**Food Hygiene:** No comments. (30.03.20).

**Private Water Supplies:** No comments. (30.03.20).

Health and Safety: Advisory note: Prior to any demolition, a work plan and risk assessment of all potentially hazardous materials should be completed. This activity is enforced by The Health & Safety Executive. (30.03.20).

### DCC Waste Planning Authority – 11th May 2020

Within the waste audit statement submitted, the applicant has made an attempt to consider the waste issues posed on this development by explaining the type of waste produced during the construction and operational phase of the development as well as the provisions made for the management of any waste generated from the development.

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

- Identify the amount construction, demolition and excavation waste to be generated, in tonnes.
- Describe how the waste generated during the construction phase will be managed.
- Identify the predicted amount of waste generated during the operational phase of the development, in tonnes.

Devon County Council has published a Waste Management and Infrastructure SPD that provides guidance on the production of Waste Audit Statements. This includes a template set out in Appendix B, a construction, demolition and excavation checklist (page 14) and an operational waste checklist (page 17). Following the guidance provided in the SPD will enable the applicant to produce a comprehensive waste audit statement that is in accordance with Policy W4: Waste Prevention of the Devon Waste Plan.

This can be found online at: <https://www.devon.gov.uk/planning/planning-policies/minerals-and-waste-policy/supplementary-planning-document>

## **REPRESENTATIONS**

140 letters of representation have been received, 84 of which were from objectors to the development (some writing more than once) and 3 were from supporters. The grounds of objection are summarised as follows:

- Not in keeping with the Conservation Area
- The design of the buildings have not been materially altered and do not blend with the area
- No amendments to the drainage system
- There will be an adverse impact on the Grand Western Canal
- The site is not an allocated development site
- This will exacerbate potential flooding in the area
- Disproportionate number of units for the size of the village
- 1500 houses to be built at Post Hill therefore no further houses required at Halberton
- We do not want Halberton Joined to Tiverton
- There will be an unacceptable increase in traffic
- The new development will be an eyesore
- The proposed is high density development
- Potential pollution issues within the pond
- The proposed will impact on the serenity of the cemetery
- The trees need to be protected
- There will be an adverse impact on the wildlife of the pond and area
- No account of climate change or increase in rainfall has been taken into account.

- This proposal will be in complete opposition to MDDC policy which states that "development within or affecting a conservation area will only be permitted where it would preserve or enhance the appearance or character of the area."
- The modern style of the proposed is out of keeping with the Conservation Area

The main support comments are summarised as follows:

- The proposal is in line with government thinking
- The present area is an eye sore the proposed will enhance this part of the conservation area
- It is not an over development of the site
- The village is well served by public transport
- The proposed development will enhance the setting of the church
- Includes houses for rent at an affordable price and co ownership of some properties is planned. Affordable housing means people on lower incomes can afford to live in a village; in this case near a transport link.
- The new bus stops will provide more appropriate and safe refuge for access to the bus service.
- The increase in numbers will help retain and possibly increase amenities we have and encourage further investment in the village
- There has been no issues with flooding beyond the pond

## **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

The main issues in the determination of this application are:

- 1. Principle of development**
- 2. The scale and character of the development within Halberton.**
- 3. Landscape impacts and effects on the Conservation Areas and Listed Buildings, Archaeology and Ecology**
  - 3.1 Landscape and Visual Impacts**
  - 3.2 Impact on Heritage Assets and Conservation Areas**
  - 3.3 Archaeology**
  - 3.4 Ecology**
- 4. Access and highway safety**
- 5. Effects on neighbouring residents**
- 6. Drainage**
- 7. Education.**
- 8. Other matters**
- 9. Section 106 agreement**
- 10. Planning balance**

### **1. Principle of the development/sustainability**

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

The National Planning Policy Framework (2021) outlines that development should be guided towards the most sustainable locations available, including previously developed or underused land in settlements. The Mid Devon Local Plan 2013-2033 was adopted in 2020 and sets out the

growth strategy for the District that seeks to balance social, environmental and economic objectives. The following Mid Devon Local Plan 2013-2033 policies are relevant to this application:

- Policy S1 seeks to manage growth in a sustainable way to support the diverse needs of communities, including the provision of affordable housing and making the most efficient use of land.
- Policy S3 seeks to meet the diverse housing needs of the community, including a target provision of approximately 100 affordable dwellings per year across the District.
- Policy S13 provides a definition of villages with defined settlement limits and sets out the type and scale of development that is acceptable within defined settlement limits.
- Policy DM1 considers high quality design based on a number of principles which are set out in the policy and considered in this application.
- Policy DM5 – Parking outlines that development must provide an appropriate level of parking.
- Policy DM9 – Whilst the site is within a recognised settlement with a settlement limit, this policy does support the conversion of rural buildings and in this case the scheme includes the conversion of traditional buildings.
- Policy DM25 - Development affecting heritage assets, notes Heritage assets and their settings are an irreplaceable resource and as such they need to be considered within any application which will impact on their setting.

The development is on agricultural land within the settlement limits of Halberton. The site is not allocated for development within the adopted development plan, but falls to be considered as it is within the defined settlement limits of Halberton.

The NPPF has a positive approach in achieving sustainable development. The NPPF also require local authorities to consider 3 main mutually supportive ways to provide opportunities for sustainable development, these being economic, social and environmental. This is so that sustainable development is pursued in a positive way; at the heart of the Framework is a presumption in favour of sustainable development.

To promote development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. The NPPF will be applicable. And in particular impacts on designated heritage assets and gives examples of where development should be restricted, including the need to consider designated heritage assets. In this case whilst there are no designated heritage assets on the site it should be noted that immediately abutting there are a number of listed properties including a grade 1 Church. Therefore, the setting of these buildings, and the Conservation Area carry's great weight when considering the proposal.

## **2. The scale and character of the development within Halberton.**

The provision of new housing to meet the needs of present and future generations is an important social sustainable benefit identified by the NPPF. Of the dwellings proposed 4 will be affordable/first home principle, providing an appropriate mix of units to meet the identified local need.

The site is very well related to the village, which provides a range of services and facilities. The proposal will also provide a pedestrian link from the site to the church and primary school and village via the existing footpath located to the north of the site located between the church and Church Barn, improving permeability in this part of the village and this has been conditioned. The site is therefore highly sustainable and the proposals provide additional measures to help ensure it becomes well integrated with the village.

The site is not located within a Site of Special Scientific Interest, Area of Outstanding Natural Beauty, Area of Great Landscape Value, and County Wildlife Site or within an area prone to flooding.

The application submission demonstrates that the proposed development can be comprehensively mitigated to ensure it can proceed without significant and demonstrable adverse impacts upon environmental interests including archaeology, trees and wildlife.

The layout of the overall scheme has been influenced by the traditional barns on the site, the density of development proposed, the relationship with neighbouring properties, drainage and highway infrastructure requirements and consideration of the setting of the listed church and views to the church and conservation area.

Consideration has been given to the relationship with neighbouring residential properties, so that adequate distance and suitable alignment ensures that there is no overlooking, overbearing, loss of privacy or loss of light to adjacent occupiers.

In terms of density, local planning policy does not refer to target housing density. While the density is lower than the average density, it is considered the lower density proposed makes efficient use of the land, given the location and size of the traditional barns, the proximity to the church, the character of the area and surrounding pattern of development.

The design of the proposed dwellings has been shaped through extensive pre-application discussions. The designs incorporate a mix of modern and more traditional styles. The resulting scheme incorporates a mix of designs and styles which respect the character of housing found elsewhere within the village while introducing a more modern element that sits comfortably alongside other architectural styles in the area.

Policy DM9 permits conversion of rural buildings of substantial and permanent construction which positively contribute to the area's rural character, provided that a suitable access exists or can be created without damaging the rural character and the road network can support the development, the building can be converted without significant alteration, extension and rebuilding, the design will retain the original character of the building and its surroundings and will retain any nature conservation interest. This is considered to be the case involving the conversion of the buildings on site into dwellings.

In terms of the structures of the existing buildings on site, structural reports have been submitted which concludes that the buildings have been used and adapted over a number of years and in general the external fabric of the buildings has been well maintained. The condition of the structures is sound and capable of being converted in accordance with the design proposals and as is usual in these types of buildings, some work will be required to bring them up to modern day standards. A Historic Building Assessment has also been submitted which states that the appearance of the barns would be improved by rendering areas of modern brickwork and that evidence of blocked openings should be retained and existing openings re-used.

With regard to biodiversity requirements as outlined with Policy DM9, further to the bat emergence/activity surveys carried out on site, in order to carry out the restoration and conversion of buildings 2 and 4 on site, bat roost provisions would be provided. These will need to be agreed by Natural England as part of the license application. These would include:

- A bat box (similar to Schwegler Type 1FF) to be installed on a nearby retained building or mature tree at least 4 metres above surrounding ground prior to the commencement of the development to provide a receptor site should a bat(s) be discovered.
- The provision of a suitable bat roost within a roof void with dimensions of at least 4m x 3m with a height to ridge of 2m would be suitable. The roost would need to have access points and roosting locations suitable for bats recorded at the site i.e. Pipistrelle sp. And Lesser horseshoe. The roost site will be solely dedicated to use by bats.

Further to the recommendations in the Protected Species Survey, there will also be the requirement to provide provision for Barn Swallows and House Sparrows to nest in the development.

### **3. Landscape and Visual impacts, and effects on the Conservation Areas and Listed Buildings, Ecology and trees.**

#### **3.1 Landscape and Visual impacts**

The site is within an area utilised for agricultural activity associated with the related farming enterprise, within the settlement limits of Halberton. A landscape statement has been undertaken by Clark landscape design as part of this application.

#### **Site description**

The site falls to the south of the main village road, which contains the historic Halberton Court Farm, its associated farm buildings, pond and open storage areas. The area to the north of the site is outside of the village and conservation area on the edge of the 'Lowland Plains' landscape character area. It has a village fringe character with the associated farm shop and car parking as the dominant features but with views to the higher ground to the north and west. The area to the south falls within the defined conservation area and partially within the area assessed as historic core. Although, largely farm buildings with a rural character, the area is seen as being part of the village close to the setting of the church.

The approach into the village from the west to the site is partially screened by the intervening topography and hedgerow vegetation. The proposed site to the south of the main village road can be seen from the canal towpath. Several trees will be felled to facilitate the new access but these do not provide the major source of screening of the development when approaching from the west and therefore their loss will not have a significant landscape impact.

Views from near to the church show 'framed' views through to the farm buildings and higher ground below but would remain largely unchanged. View from Pond Hill would be retained with only glimpsed views through to the proposed buildings to the north and west of the pond.

In summary, the main views looking back into the site from the surrounding landscape show the proposed development as being part of the village and not separate from it. The greatest impact of the development will be seen along the approach road entering and leaving the village but it has little wider impact.

## Mitigation proposals

The existing roadside hedgerow will be retained where practical and reinforced with additional tree planting. Where trees have to be felled to allow space for the main access to the site new semi-mature trees will be planted as replacements along with good under-storey planting. Further tree planting will be undertaken within the site.

### **3.2 Impact on Heritage Assets and Conservation Areas**

When coming to a decision for an application where there would be an impact on a heritage asset, there are a number of duties required by the Local Planning Authority. Where a Listed Building is affected, in coming to a decision the council must be mindful of the duty as set out in section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving the listed building, its setting and features of special architectural or historic interest which it possesses, and have given it considerable importance and weight in the planning balance. Where a Conservation Area is affected in coming to a decision the council must be mindful of the duty as set out in section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area, and have given it importance and weight in the planning balance.

Government policy recognises the need for local planning authorities to require a description of the significance of any heritage assets affected by a proposed development, including any contribution made by the setting of the asset. NPPF describes the setting of a heritage asset as 'the surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve'. Setting itself is not a heritage asset or designation in its own right, but its importance lies in the elements it contributes to the significance of the heritage asset to which it relates. NPPF also makes clear that 'Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral'.

There are no buildings with statutory designations within the boundary of the Site, all such buildings are outside the boundary of the proposal. Church Barn and No 6 Pond Hill, which are both Grade II Listed buildings, are to the southern-most tip of the Site, fronting Church Path and Pond Hill. The Church of St Andrew, the Grade I Listed parish church, lies immediately to the south with a portion of the churchyard bounding the south-western side of the Site. There are a further six Grade II Listed buildings or structures in the immediate area of the church, as well as the Grade II Listed rectory within 50m to the south-west of the boundary. Two Grade II\* Listed buildings and an additional thirteen Grade II Listed buildings are situated within the 500m research radius.

The Halberton Conservation Area was designated in 1990 and covers the whole of the historic core of Halberton, including Higher Town and Lower Town. The site lies entirely within the boundary of the Conservation Area. The north-west boundary of the Conservation area runs along the north side of the Tiverton Road; the north-western portion of the Site is therefore outside the Conservation Area but fronts directly onto it. The Grand Western Canal was also designated as the Grand Western Canal Conservation Area in October 1994.

Historic England guidance accepts that, 'many places are within the setting of a heritage asset and are subject to some degree of change over time'. It further recognises that 'protection of the setting of heritage assets need not prevent change'. Accepting that changes to the setting of heritage assets is normal, the issue is whether changes are neutral, harmful or beneficial to the significance



of the heritage asset. Preservation does not mean lack of change, but a principle of ‘no harm’ in relation to Listed Buildings and Conservation Areas. Consequently, development within the setting of a heritage asset, changing that setting, cannot be presumed to be inherently harmful. Harm arises when change adversely alters an element, or elements, of the setting of an asset which contributes to its significance. This necessarily will differ between assets of the same type or grade, the location of the asset, and the nature of its setting.

Four areas of value for heritage assets are defined in Conservation:

1. Evidential value (potential to provide evidence about past human activity) – primarily related to historic fabric or physical remains;
2. Historical value (connection of past people, events and aspects of life to the present, through a place) – often association to notable people or events;
3. Aesthetic value (qualities generated by the design of a structure, building or landscape) – relates to physical form, how it sits within its setting and may be a result of deliberate design or the fortuitous outcome of a sequence of events or processes;
4. Communal value (the meanings of a place for people who relate to it) – relates to collective identity or memory, and may be symbolic or commemorative.

The overall significance of each heritage asset will generally derive from one or more of these values. The setting of a heritage asset is likely to contribute to, or can detract from these values, and thereby affect the asset’s significance. The contribution of setting to the significance of heritage assets has been assessed by taking into account the physical surroundings and associations and experience of the assets.

#### Impact or Harm

In defining the impact or harm, the setting of an asset cannot be harmed as it has no designation in and of itself. Any change must therefore be assessed within the context of impact on the significance of the heritage asset itself. Impact on the significance of each asset is therefore considered in terms of whether it will be subject to:

Substantial harm – where there is an adverse impact on a key element of its architectural or historic interest;

Less than substantial harm – where there is an adverse impact on other elements of an asset’s significance;

No harm - where the attributes of the heritage asset have not been adversely impacted. It should be recognised that some changes will be beneficial to the setting of an asset.

Most of the heritage assets will not be impacted by the proposals, with the undulating topography enveloping most of the new builds in the base and lower slopes of the valley. With the ground rising up towards the historic farm complex and St Andrew’s Church above, the primacy of the historic focus of this part of the Conservation Area is preserved. Indeed, there is potential for beneficial enhancement to the setting of these assets through views across the Site and towards St Andrew’s Church, and the character of the Conservation Area.

St Andrew’s Church and churchyard directly overlook the Site and as such are more susceptible to harm. However, on the proviso that the design is sensitive to the monument, including the conversion of the historic barn directly below the churchyard and nearby historic agricultural buildings, on balance any harm should be outweighed by the benefits of repurposing dilapidated buildings and removing modern eyesores. It is also important to note that the proposals will open up vistas towards the church.

Mid Devon's Conservation Officer has responded as seen in the consultee responses earlier within the report. He has commented that overall there is a slight change to the visually important open space and the setting of the Church from the proposal, but that change is minimal and is not building that would obscure the view. Therefore the conclusion given would be that the officer would need to balance any harm against the public benefit of the proposal in the conservation area. In this case, the benefits arrive from the provision of affordable housing, financial contributions towards public open space and transportation for the secondary school. The site would also be landscaped with new highway infrastructure.

### **3.3 Archaeology**

The proposed development lies within an area of archaeological potential close to the parish church, and involves the conversion of some historic farm buildings. While a historic building appraisal report has been submitted in support of this application this work may need to be supplemented by additional recording and observations undertaken during the course of the conversion works where further historic building fabric and fixtures and fittings may be revealed. In addition, there is the potential for the site to contain heritage assets with archaeological interest associated with the early settlement here. As such, groundworks and building conversion work associated with the proposed development have the potential to expose and destroy archaeological and artefactual deposits associated with the early settlement, as well as affecting historic building fabric.

Suitable pre-commencement conditions will need to be imposed to safeguard the existing historic buildings and areas of potential.

### **3.4 Ecology**

To ensure appropriate mitigation of Protected Wildlife Species a systematic check of all accessible areas of the identified buildings, an external visual check and walkover survey of the immediate surrounds was undertaken in conjunction with an assessment of the pond for amphibians.

#### **Bats**

No Bats or indication of bat use were found in any of the surveyed buildings. The boundary trees and vegetation were assessed no bat roosts were located. A bat emergence survey was undertaken with no bats found, although it was concluded that building 4 was used as a day roost by small numbers of Pipistrelle bats, others as possible night time perch. So a European Protected Species licence will need to be obtained. Mitigation measures to include bat boxes, and suitable bat roost areas, these are shown on the plans within the application and the ecology report.

#### **Nesting Birds**

Swallows have previously nested, no indication of owl species, House sparrow were active, with areas of ivy capable of providing appropriate nesting sites.

#### **Amphibians and Reptiles**

No amphibians or indications of amphibians were found in the pond survey, the habitat suitability Index for the pond resulted in a value of 0.3415 which is the lowest level indicating 'poor' pond habitat suitability.

#### **4. Access and highway safety**

Given the location of the site and the opportunities for residents to walk, cycle, car share and use the public transport network, it is considered that the development is sustainable in transport terms. Therefore, a presumption in favour of the scheme should apply. The approach road to the site (High Street) is of a suitable standard to accommodate the traffic predicted to be generated by the development scheme. The provision of safe and suitable access arrangements for all people (pedestrian, cycle and vehicle) have been detailed within this planning application.

The proposed level of on-site parking provision (car, cycle and motorcycle) would comply with the relevant standards within Policy DM5 of the Mid Devon Local Plan 2013-2033.

Adequate provision can be made within the site for service/delivery/emergency vehicle access.

The TRICS assessment indicates that the development proposal is predicted to generate levels of traffic that can easily be accommodated on the local highway network.

There have been a number of concerns with regard to the potential increase in traffic through Halberton due to the proposed scheme. It is evident that there will be some increase in traffic through Halberton, although it is likely the majority of traffic will be heading to Tiverton and the new access link onto the A361 which is presently under construction.

To summarise, in light of the assessment work and analysis, it is considered that the traffic generated by the proposed development would not have a detrimental impact upon the safe operation of the local highway network and in terms of accessibility; the application site is situated in a location that could allow residents to travel by sustainable modes of transport.

Consequently, there are no significant transportation, highway safety or access reasons that should prevent the implementation of this scheme.

The Highways Authority have assessed the proposal and stated that the transport assessment is acceptable and the offsite highway works as shown on Plan PED/HC/2019 are acceptable and in accordance with the technical assessment undertaken with The Highway Authority and county safety auditor.

In respect to ground levels and accessibility across the site, the topography data shows that in terms of the new housing development from plot 5 down to plot 8 the difference in ground levels is approx. 1.14m. Therefore it is not considered that accessibility will be an issue to warrant refusal of the proposal.

#### **5. Effects on neighbouring residents**

The proposals include the provision of a revised access into the farm to serve the proposed new access into the site. Various other highway improvements including provision of footpaths and bus stop. Each residential plot is served by the optimum number of parking spaces as defined in the adopted local plan policy. There is also additional space within the site to accommodate on road parking on the edge of the new access road proposed.

An area of open space is proposed on the western side of the application site. The proposed development will have little impact on the amenity levels of the adjacent properties with no overlooking issues or overshadowing. Therefore the development is considered to comply with Policy DM1 of the Mid Devon Local Plan 2013-2033.

## **6. Drainage**

A number of revisions have been undertaken to the proposed drainage and it is considered by the LLFA that the proposed scheme can be accommodated subject to specific conditions. The drainage arrangements are therefore considered to comply with Policy DM1 of the Mid Devon Local Plan 2013-2033.

## **7. Education**

There is currently capacity at the nearest primary and secondary school for the number of pupils likely to be generated by the proposed development and therefore a contribution towards education infrastructure would not be sought for this development. Devon County Council will however seek a contribution towards secondary school transport due to the proposed development site being further than 2.25 miles from Tiverton College.

This will be dealt with by way of section 106 agreement as set out below in Section 9.

## **8. Other matters**

Issues have been raised with regard to the potential for the Grand Western Canal to breach its banks. The Lead Local Flood Authority (LLFA) are content with the proposal and the provision of the drainage associated with the proposal.

Concerns have also been raised with regard to views from the Grand Western Canal (GWC) and the potential impact this will have. It is agreed that the buildings will be visible from the canal, however the canal will remain unharmed and views will still be across open agricultural land. Views to the church will not be interrupted, and to assist with any potential negative impact the proposal will have suitable landscaping incorporated to assist with softening the perceived impact. The canal presently runs behind various dwellings and urban forms with minimal visual impact. The proposed will be some 270m from the canal, properties within Halberton are closer at 120m.

Further concerns have been raised with regard to the potential loss of trees etc. close to the pond impacting on its enclosed nature and altering its appearance as well as the potential to open views into and out of the site if removed. It is considered that a condition is imposed to retain the trees and understory during construction and for them to be retained without change. Subsequently they will be protected by the conservation area requiring works to any tree requiring consent from the Planning Authority.

It was concluded that there is no scope to provide any additional buffer to the pond, this matter was discussed at length with the case officer who also met with the Parish to explain this point. Plots 7, 8 and 9 cannot be brought forward as this would compromise the parking and impact on the foul and surface water drainage pipes and the required no build zones for this pipework. On balance, the relationship between the plots and the pond is considered to be acceptable.

In terms of Biodiversity Net Gain, the proposal will incorporate the recommendations of the ecology report. It is noted that a License is required from Natural England for the development and further detailed mitigation will be proposed at that stage. The proposal also incorporates the new tree and hedge planting, soft landscaping and the attenuation basin will be planted for habitat creation. Overall, the proposal will achieve a biodiversity net gain compared with the existing situation, which includes a developed and functionally used agricultural yard.

In terms of carbon reduction, EV charging points will be provided in the proposed garages. Solar panels were not proposed at this stage, due to the possible sensitivities with the roof slopes facing

the church. It has been outlined that the proposal will meet and exceed current building regulation standards and sustainable technologies will be incorporated in the build. For instance, it is anticipated that the properties will use air source heat pumps. From a sustainability perspective, the proposal reuses a number of existing buildings and will secure their retention and a viable use, to ensure they are maintained in the future, in this important location within the village.

## **9. Section 106 agreement**

A section 106 agreement has been drafted to secure the following:

- Provision of four 'First Homes' (a Dwelling which may be disposed of as a freehold or (in the case of flats only) as a leasehold property to a First Time Buyer at the Discount Market Price) in perpetuity subject to the terms to be contained within the Schedule of the S106 agreement.
- Public Open Space contribution of the sum of £20,188 to be used towards the acquisition of land within the parish of Halberton to be used as public open space.
- School Transport Contribution of the sum of £6,922 towards secondary school transport costs in relation to Tiverton High School.

This document is ready to be signed and is only awaiting a resolution to approve the development.

## **10. Planning balance**

The following paragraphs consider the impacts of the development and finally weigh in the balance of the benefits of the proposal against identified harm, and assess whether there are special circumstances to warrant approval of a housing development within this location.

The development will provide 10 open market and 4 affordable/first home principle dwellings which would provide economic and social benefits for Halberton. Policy S1 of the Mid Devon Local Plan 2013-2033 seeks sustainable growth which enhances the self-sufficiency of communities and provides access to education, jobs and sustainable transport. Policy S2 focuses development on the towns and states that other settlements should have only limited development to meet local needs and promote vibrant rural communities. Halberton is classed as a village where development should be limited to meet local needs. It is considered that this application will bring forward a sustainable proposal for 14 dwellings on a site which is within the settlement limits.

It is considered that there would be some harm to the landscape qualities of the area but this harm is acceptable as it would only be observed from closer viewpoints and this has been mitigated through good design, layout and landscaping. The design, size, scale, form, and layout of the houses, together with materials have been carefully considered and fit in to the village and the wider landscape; it is considered that the development would be seen in the context of the existing built form of Halberton.

The impacts on the highway network and local schools can be off-set by financial contributions towards improvements and physical off-site highway works. This when combined with the inclusion of contributions to an area of public open space, the change to the proposed access, are significant benefits that weigh in favour of the development.

Taking all the above into account, it is considered that the delivery of housing on a sustainable site results in a development that accords with the NPPF. Subject to appropriate conditions and provisions of the proposed s106 agreement there are no technical objections to the application.

The Local Planning Authority concludes that the adverse impacts of the development would not significantly and demonstrably outweigh the benefits, when assessed against the policies taken as a whole. Accordingly the development is recommended for approval.

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

## **CONDITIONS**

1. The development hereby permitted shall be begun before the expiration of three years of the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice.
3. The 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.
4. Prior to occupation, the off-site highway works as shown on drawing no. PED/HC/2019 will have been constructed, completed, and made available for use.
5. No development hereby permitted shall commence until the following information has been submitted to and approved in writing by the Local Planning Authority:
  - (a) A detailed drainage design based upon the approved Flood Risk Assessment and Drainage Strategy.
  - (b) Detailed proposals for the management of surface water and silt runoff from the site during construction of the development hereby permitted.
  - (c) Proposals for the adoption and maintenance of the permanent surface water drainage system.
  - (d) A plan indicating how exceedance flows will be safely managed at the site.
  - (e) An assessment of the condition of the watercourse which will be affected by the proposals. The assessment should identify and commit to, any repair and/or improvement works to secure the proper function of the surface water drainage receptor.No building hereby permitted shall be occupied until the works have been approved and implemented in accordance with the details under (a) - (e) above.
6. No part of the development hereby approved shall be commenced until:
  - A) The access roads have been laid out, kerbed, drained and constructed up to base course level for the first 20.00 metres back from its junction with the public highway
  - B) The ironwork has been set to base course level and the visibility splays required by this permission laid out.
  - C) The footway on the public highway frontage required by this permission has been constructed up to base course level.

D) A site compound and car park have been constructed to the written satisfaction of the Local Planning Authority.

7. No development to which this permission relates shall commence until an appropriate programme of (i) historic building recording and analysis and (ii) archaeological work has been secured and implemented in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority. The development shall be carried out at all times in strict accordance with the approved scheme, or such other details as may be subsequently agreed in writing by the District Planning Authority.
8. Before the commencement of development, a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority. The CEMP shall identify the steps and procedures that will be implemented to minimise the creation and impact of noise, vibration, dust and waste disposal resulting from the site preparation, groundwork and construction phases of the development and manage Heavy/Large Goods Vehicle access to the site. It shall include the recommended mitigation measures identified during Chapter 12 of the Environmental Statement covering Dust and Air Quality. It shall include details of the hours of operation and measures to be employed to prevent the egress of mud, water and other detritus onto the public and any non-adopted highways.

For the avoidance of doubt it should include:

- (a) the timetable of the works;
- (b) daily hours of construction;
- (c) any road closure;
- (d) hours during which delivery and construction traffic will travel to and from the site, with such vehicular movements being restricted to between 8:00am and 6pm Mondays to Fridays inc.; 9.00am to 1.00pm Saturdays, and no such vehicular movements taking place on Sundays and Bank/Public Holidays unless agreed by the planning Authority in advance;
- (e) the number and sizes of vehicles visiting the site in connection with the development and the frequency of their visits;
- (f) the compound/location where all building materials, finished or unfinished products, parts, crates, packing materials and waste will be stored during the demolition and construction phases;
- (g) areas on-site where delivery vehicles and construction traffic will load or unload building materials, finished or unfinished products, parts, crates, packing materials and waste with confirmation that no construction traffic or delivery vehicles will park on the County highway for loading or unloading purposes, unless prior written agreement has been given by the Local Planning Authority;
- (h) hours during which no construction traffic will be present at the site;
- (i) the means of enclosure of the site during construction works; and
- (j) details of proposals to promote car sharing amongst construction staff in order to limit construction staff vehicles parking off-site
- (k) details of wheel washing facilities and obligations
- (l) The proposed route of all construction traffic exceeding 7.5 tonnes.
- (m) Details of the amount and location of construction worker parking.
- (n) Photographic evidence of the condition of adjacent public highway prior to commencement of any work.

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

9. The development shall take place only in accordance with the recommendations in the Bat Emergence/Activity Surveys along with the Relocation of reptiles undertaken by County Contracts dated September 2017, and dated 27th March 2018 submitted to the Local Planning Authority.
10. Any external lighting installed on site shall be in accordance with a sensitive lighting plan that shall have been submitted to and approved in writing by the Local Planning Authority before any external lighting is installed.
11. Prior to their first use on the buildings details and a sample of the proposed materials to be used on the properties of the proposed dwellinghouses shall be submitted to and approved in writing by the Local Planning Authority. The approved materials shall be so used and retained.
12. Before their installation, details of the external windows and doors (including garage doors) to be used in the development, shall be submitted to and approved in writing by the Local Planning Authority. Only such approved windows and doors shall be used.
13. The external windows and doors shall be recessed into the walls in accordance with details that shall have first been submitted to and approved in writing by the Local Planning Authority before the windows and doors are installed.
14. Within 9 months of the commencement of development, a landscaping scheme and management plan shall be submitted to, and approved in writing by the Local Planning Authority. The landscaping scheme shall include details of hard and soft landscaping proposed, including any changes proposed in existing ground levels and a sample of the paving proposed for the shared surface driveways and all the parking areas. All planting, seeding, turfing, earth reprofiling and hard landscaping comprised in the approved details of landscaping shall be carried out within 9 months of the substantial completion of the development, (or phase thereof), and any trees or plants which, within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species. The management plan will provide full details of how the scheme will be managed during its lifetime including full details of a management company if appropriate. The development will thereafter be maintained and managed in accordance with the approved plan.
15. Notwithstanding the provisions of Article 3 of The Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no development of the types referred to in Classes A, AA, B, C, D, E F or G of Part 1 of Schedule 2 or Class A, and B of Part 2 of Schedule 2 relating to the enlargement, improvement or other alteration of the house (including the installation of new windows or doors or the replacement of existing windows and doors), alterations to the roof of the dwellinghouse, the erection or construction of a porch outside any external door, provision of hard surfaces, or the erection construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure on the dwelling or within the dwelling curtilage, or a new access to a highway, without the Local Planning Authority first granting planning permission.
16. The trees and undergrowth located between plot 9 and the existing pond shall at all times be retained requiring specific permission from the Authority to undertake any remedial work at any time.
17. As shown on Plan A, the opening on site between lines A and B shall not be blocked up being left open allowing access to the footpath (located between the church and church barn) from



the development hereby approved. This area will be left open for the lifetime of the development allowing access at all times for all to pass and repass without obstruction at any time of day.

18. Prior to development commencing, the applicant shall carry out a detailed phase II intrusive investigation and risk assessment aimed at identifying the full extent and type of land contamination identified during the phase I assessment.

A report of the investigation and its recommendations shall be submitted for approval to the Local Planning Authority for consultation with Environmental Health Services (and other agencies if required).

If required, a site remediation statement shall be submitted for approval to the Local Planning Authority for consultation with Environmental Health Services (and other agencies if required).

Following completion of any required remediation works, a validation report shall be submitted to the Local Planning Authority for consultation with Environmental Health Services (and other agencies if required).

Development on the site shall not commence until the land contamination investigation report and remediation have been approved in writing. Occupation on the site, or parts of the site affected by land contamination, shall not take place until the validation report has been approved in writing.

## **REASONS FOR CONDITIONS**

1. In accordance with provisions of Section 51 of the Planning and Compulsory Purchase Act 2004.
2. For the avoidance of doubt in the interests of proper planning.
3. To ensure that adequate information is available for the proper consideration of the detailed proposals.
4. To minimise the impact of the development on the highway network in accordance NPPF.
5. To ensure that surface water runoff from the development is discharged as high up the drainage hierarchy as is feasible, and is managed in accordance with the principles of sustainable drainage systems, and that surface water runoff from the construction site is appropriately managed so as to not increase the flood risk, or pose water quality issues, to the surrounding area, in accordance with policies S9 and DM1 of the Local Plan 2013-2033.
6. To ensure that adequate on site facilities are available for all traffic attracted to the site during the construction period, in the interest of the safety of all users of the adjoining public highway and to protect the amenities of the adjoining residents.
7. To ensure, in accordance with the National Planning Policy Framework and the supporting text of the Mid Devon Local Plan 2013-2033 Policy DM25, that an appropriate record is made of archaeological and historic building fabric evidence that may be affected by the development.

8. To ensure that adequate on site facilities are available for all traffic attracted to the site during the construction period, in the interest of the safety of all users of the adjoining public highway and to protect the amenities of the adjoining residents.
9. To ensure the proposal does not detrimentally impact on the ecological interests of the site in accordance with policy DM1 and S9 of the Mid Devon Local Plan.
10. To ensure the proposal does not detrimentally impact on the ecological interests of the site in accordance with policy DM1 and S9 of the Mid Devon Local Plan.
11. To ensure the development makes a positive contribution to the landscape character and visual amenity of the area in accordance with policies S1, DM1 and DM25.
12. To ensure the development makes a positive contribution to the character and amenity of the area in accordance with policies DM1, DM25 and S13.
13. To ensure the development makes a positive contribution to the landscape character and visual amenity of the area in accordance with policies S1, DM1 and DM25.
14. To ensure the development makes a positive contribution to the landscape character and visual amenity of the area in accordance with policies DM1, DM25 and S13.
15. To ensure the buildings will retain their character and that the Authority are able to maintain the appearance of the Barns and new builds and that the development makes a positive contribution to the character and amenity of the area in accordance with policies DM1, DM25 and S13.
16. To ensure the development makes a positive contribution to the character and amenity of the area in accordance with policies DM1, DM25 and S13.
17. To ensure adequate details are provided to ensure there is a safe and suitable pedestrian access to the village, in accordance with policies DM1 and S8.
18. In the interests of public health and protection of the environment.

## **INFORMATIVES**

1. Health and Safety Advisory note: Prior to any demolition, a work plan and risk assessment of all potentially hazardous materials should be completed. This activity is enforced by The Health & Safety Executive.

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

The proposal is considered to be acceptable in that the development would provide 10 market and 4 First home type dwellings to meet an identified need. The provision of a new bus stop heading east will provide and assist the locality. The visual effects of the development are considered to be well balanced and will compliment not only the Conservation area but also the surrounding landscape. However, although there would be some minor harm to the landscape qualities of the area, it is considered that this can be controlled through conditions. In terms of the wider landscape, the development would be seen in the context of the existing built form of Halberton

and mitigated through the presence of green infrastructure on the most elevated part and so assists in weighing in favour of the development sufficient to warrant approval in the public interest. The development therefore complies with policies S1, S3, S13, DM1 and DM5 of the Mid Devon Local Plan 2013-2033.

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